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# THE LAWS OF TEXAS

1822-1897

*Austin's Colonization Law and Contract; Mexican Constitution of 1824; Federal Colonization Law; Colonization Laws of Coahuila and Texas; Colonization Law of State of Tamasulipas; Fredonian Declaration of Independence; Laws and Decrees, with Constitution of Coahuila and Texas; San Felipe Convention; Journals of the Consultation; Proceedings of the General Council; Goliad Declaration of Independence; Journals of the Convention at Washington; Ordinances and Decrees of the Consultation; Declaration of Independence; Constitution of the Republic; Laws, General and Special, of the Republic; Annexation Resolution of the United States; Ratification of the same by Texas; Constitution of the United States; Constitutions of the State of Texas, with all the Laws, General and Special, passed thereunder, including Ordinances, Decrees, and Resolutions, with the Constitution of the Confederate States and the Reconstruction Acts of Congress.*

COMPILED AND ARRANGED BY  
H. P. N. GAMMEL  
OF AUSTIN.

WITH AN INTRODUCTION BY C. W. RAINES.

VOLUME III.

AUSTIN:  
THE GAMMEL BOOK COMPANY.  
1898



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# L A W S

PASSED BY

THE SECOND LEGISLATURE

OF

THE STATE OF TEXAS

VOLUME II.

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PUBLISHED BY AUTHORITY.

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HOUSTON.  
1848

1 — VOL. III.

•• For more convenient reference, the laws contained herein are severally designated by chapters and numbers in regular series. The laws of the first Legislature are considered as being embraced in volume I, and those of the second in volume II.

•• The laws of the present or second volume are divided into two parts—Part, I containing those denominated “laws of a general nature;” and part II, those “for private relief” and “incorporating towns, cities, institutions of learning, and private associations of every nature,” in conformity to the provisions of Chapter 71, Section 2.

•• Those laws signed by the Governor, are designated by the word Approved—and those not signed by him, are said to be passed.

VOLUME II—PART I.

# GENERAL LAWS.

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## CHAPTER 1.

Joint Resolution to employ an express-man to inform Gen. Sam Houston of his election to the Senate of the United States Congress.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Governor of this State be authorised and requested to employ some person, without delay, to notify Hon. Sam Houston of his election to the Senate of the United States, and that an appropriation be made out of the contingent fund for that purpose.  
Approved, December 16, 1847.

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## CHAPTER 2.

Joint Resolution requesting the contractor of the Mail Route from Austin to Bonham to transport the same weekly, instead of semi-monthly, and making provisions for the same.

Section 1. Resolved by the Legislature of the State of Texas, That William H. Hunt, contractor for the transportation of the mails from the City of Austin to Bonham, Fannin County, be requested to transport the same weekly, instead of semi-monthly.

Sec. 2. Be it further Resolved, That the Legislature memo-

rialize the Post Master General, to make the increase in accordance with the foregoing resolution.

Approved, December 30, 1847.

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### CHAPTER 3.

Joint Resolution granting further time for the payment of Government Dues and the return of Field Notes.

Section 1. Be it Resolved by the Legislature of the State of Texas, That further time is given until the first day of February, one thousand eight hundred and fifty, for the payment of Government dues and the return of field notes to the General Land Office, on all lands surveyed in pursuance of law. Provided, however, that in no case shall a patent to any land issue until all the Government dues thereon shall have been paid.

Sec. 2. Be it further resolved, That this joint resolution take effect from and after its passage.

Approved, December 31, 1847.

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### CHAPTER 4.

An Act to reserve one of the Public Buildings in the City of Austin for the Supreme Court.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Comptroller of Public Accounts be, and his is hereby authorized to reserve the building occupied by Mr. Conner, in the City of Austin, for the use of the Supreme Court of the State of Texas.

Sec. 2. Be it further enacted, That this act take effect from and after its passage.

Approved, January 1, 1848.

CHAPTER 5.

An Act to provide an appropriation for the payment of the mileage and per diem pay of the Members of the Legislature of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of fifteen thousand dollars be, and the same is hereby appropriated for the payment of the mileage and per diem pay of the members of the Legislature of the State of Texas; also, for the payment of the per diem pay of the officers attendant thereon.

Sec. 2. Be it further enacted, That the Treasurer be, and he is hereby authorized and required to pay all drafts which shall be drawn by the Speaker of the House of Representatives, attested by the Chief Clerk of said House; and all drafts which may be drawn by the President of the Senate, attested by the Secretary of the same, for the payment of the mileage and per diem pay of the officers attendant thereon, out of any moneys in the Treasury appropriated by this act; and that this act take effect from and after its passage.

Approved, January 1, 1848.

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CHAPTER 6.

An Act to provide for the disposition of the funds received from the United States.

Section 1. Be it enacted by the Legislature of the State of Texas, That it shall be the duty of the accounting officer, on settling the accounts of James Bourland, late Collector of Customs for the District of Red River, to allow him such portion of the amount received from the General Government of the United States, for the forcible entry of the Texian Custom-house at Bryarly's Landing, in 1843, as was allowed to officers of the customs in cases of seizure under the laws then existing.

Sec. 2. Be it further enacted, That it shall be the duty of the Governor to pay said Collector the amount found to be due

him by the proper accounting officer, out of the amount received from the proceeds of said claim; and the balance, if any, shall be paid into the State Treasury.

Sec. 3. Be it further enacted, That the nett proceeds of the sum of one thousand nine hundred and seventy-five dollars, received from the General Government, as an indemnity for the disarming of a portion of the command of Col. Snively by order of Captain Cook, of the United States Army, in 1843, after deducting therefrom the expense of collection and transportation to the City of Austin, shall be divided equally among the men composing the party disarmed: And in the event of the death of any of the men composing said party, the amount or amounts due such person or persons deceased, shall be paid to his or their legal representatives, on the affidavit of a member of the expedition, that the deceased was of the party disarmed: and in other cases the party applying for the benefit of this act, shall make affidavit that he was a member of said party, corroborated by the evidence of another member.

Sec. 4. Be it further enacted, That the expense of collecting and transporting to the City of Austin the moneys described in this act, be deducted pro rata, from the sums collected, prior to the division and distribution above provided for: and that this act take effect from and after its passage.

Approved, January 3, 1848.

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## CHAPTER 7.

Preamble and Joint Resolution of the Legislature of the State of Texas, requesting the Senators and Representatives of Texas in the Congress of the United States, to urge the passage of a law for the payment of the volunteers called out from this State under the requisition of Col. S. R. Curtis.

Whereas, during the progress of the present war with Mexico, several requisitions have been made upon this State for troops, which have been promptly responded to by our citizens:

And whereas, those who went out under the call based upon

the requisition of Col. S. R. Curtis, (then commanding at Camargo,) for two thousand six months mounted riflemen, to meet an existing emergency, have not received pay for their services:

And whereas, these men by their promptness in hastening to the place of rendezvous—in organizing themselves into a regiment—and in marching for the seat of war, under the almost universal impression that the state of affairs in Mexico was such that their services were most anxiously desired, have shown themselves possessed of that true spirit of zealous patriotism, in which rests in a great degree, the power of free governments to render themselves invincible without standing armies:

And whereas, the officers and members of that regiment incurred a very considerable expense in purchasing horses and arms for that campaign:

And whereas, their loss, particularly in horses, was necessarily considerable; from the fact that they received no forage, except for a few days at San Antonio, and that the country was generally burnt over by fires and drought, so that they were almost without grass—their horses becoming thereby comparatively valueless—and that many of them, for want of means, were compelled to sacrifice them at sale, in order to be able to return home:

And whereas, it is necessary that the just claims of these troops to compensation should be presented to the Congress of the United States, therefore:

Section 1. Be it unanimously resolved by the Legislature of the State of Texas, That our Senators and Representatives be requested to urge upon the Congress of the United States, to make such an appropriation as will secure to that regiment a just compensation for their services and losses.

Sec. 2. Be it further resolved, That his excellency the Governor be requested to forward a copy of this preamble and resolutions to each of our Senators and Representatives in Congress, to be by them laid before their respective Houses.

Approved, January 6. 1848.



## CHAPTER 8.

An Act to provide for Repairs necessary on Public Buildings in the City of Austin.

Section 1. Be it enacted by the Legislature of the State of Texas, That such an amount of money, arising from the rent of the public buildings situated in the City of Austin, as in the opinion of the Comptroller may be necessary, be appropriated to repair said buildings: Provided, the amount of money so appropriated, does not exceed one half of the amount for which the said buildings may be rented.

Sec. 2. Be it further enacted, That this act take effect from and after its passage.

Approved, January 7, 1848.

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CHAPTER 9.

An Act to provide for locating the Seat of Justice of the County of Austin.

Section 1. Be it enacted by the Legislature of the State of Texas, That from and after the passage of this act, the County seat of Austin shall be at the place selected by the people at an election holden on the twenty-third day of December, one thousand eight hundred and forty six, on Thomas Bell's tract of land in said county.

Sec. 2. Be it further enacted, That all process heretofore issued, or that may issue up to the first day of February, 1848, shall be returned to the court house at the county seat of justice of the county of Austin, as established by the provisions of the first section of this act; and after the first day of February, 1848, all process shall be made returnable to the court house of Austin county.

Sec. 3. Be it further enacted, That in order to name the county seat of justice of the county aforesaid, the Chief Justice shall cause an election to be holden throughout the county, at the usual places of holding elections, on the day of the next

general election of county officers, which shall be conducted according to law; at which time, the people shall declare by vote by what name the county seat shall be known; and the name having the highest number of votes, shall be the name of the county seat: and that this act shall take effect and be in force from and after its passage.

Approved, January 7, 1848.

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CHAPTER 10.

An Act to admit Franklin B. Sexton, Asa H. Willie, and Josiah F. Crosby to practice law in the Courts of this State.

Section 1. Be it enacted by the Legislature of the State of Texas, That Franklin B. Sexton, Asa H. Willie, and Josiah F. Crosby be, and they are hereby admitted to practice law in all of the courts of this State: Provided, that the said Franklin B. Sexton, Asa H. Willie, and Josiah F. Crosby, after undergoing an examination as required by law, be deemed qualified for admission: and provided also, that the said Franklin B. Sexton, Asa H. Willie, and Josiah F. Crosby shall not, by reason of their minority, be exempt from liability upon their professional engagements.

Sec. 2. Be it further enacted, That this act take effect from and after its passage.

Approved, January 10, 1848.

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CHAPTER 11.

An Act the better to define the boundaries of Grayson County.

Section 1. Be it enacted by the Legislature of the State of Texas, That from and after the passage of this act, the county of Grayson be, and the same is hereby bounded as follows, to wit: Beginning on Red River, at the mouth of Choctaw Bayou;

thence south, twenty-two miles; thence west, twenty-five miles, to the eastern boundary of Denton county; thence north, one and a half miles, to the north-east corner of Denton county; thence west, six and a half miles; thence north, to Red River; thence down the same, with its meanders, to the beginning.

Sec. 2. Be it further enacted, That this act take effect from and after its passage.

Approved, January 12, 1848.

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## CHAPTER 12.

An Act establishing more permanently the seat of justice of Collin County.

Section 1. Be it enacted by the Legislature of the State of Texas, That James M. McReynolds, James B. Wilmoth, Denton Darby, John Fitzhugh, and William McKinney be, and they are hereby appointed Commissioners to locate the seat of justice in Collin County; who, after being duly sworn, shall proceed to find the centre of said county, and select two places, within three miles of the centre of said county, having due regard to donations that may be offered by individuals for a town site, for the use of said county: The Commissioners shall then proceed to hold an election, giving at least ten days notice thereof; and the place having the greatest number of votes shall be the seat of justice for said county; and the Commissioners shall proceed to lay off and sell the lots therein at public auction, on a credit of twelve months, under the direction of the county court.

Sec. 2. Be it further enacted, That the proceeds arising from the sale of lots in said town, or from other donations, shall be applied, under the direction of the county court, for the erection of public buildings in said town.

Sec. 3. Be it further enacted, That this act shall be in force and take effect from its passage: and that all laws conflicting

with the provisions thereof be, and the same are hereby repealed.  
Approved, January 12, 1848.

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### CHAPTER 13.

An Act to amend the eleventh section of an act entitled "an act defining the office and duties of Coroner," approved May 13th, 1846.

Section 1. Be it enacted by the Legislature of the State of Texas, That the eleventh section of the above recited act be, and the same is hereby amended, so as to read after the enacting clause, as follows, to wit: That it shall be the duty of the Coroner, on the receipt of any such information, forthwith to issue a precept, directed to any Constable of the county, requiring him to summon without delay, not less than six nor more than twelve persons, qualified to serve as jurors, to appear at the place where the body is found; and if six do not appear, he shall summon others, until that number do appear.

Approved, January 12, 1848.

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### CHAPTER 14.

An Act to provide for the permanent location of the County seat of Grayson County.

Section 1. Be it enacted by the Legislature of the State of Texas, That James B. Shannon, John Hendricks, Samuel Blagg, James H. Vadere, and M. B. Shackelford, be, and they are hereby appointed Commissioners whose duty it shall be to find the centre of the County of Grayson, and select two places, within three miles of the said centre, having due respect to donations that may be offered of land or other proper-

ty, for a town site, for the use of the county. The Commissioners shall then proceed to hold elections, at the precincts in said county; and the place receiving the greatest number of votes shall be the county seat of said county: After which, the Commissioners shall proceed to lay off a town and sell the lots therein, on a credit, of twelve months; and after reserving one dollar per day, each, for each and every day they may be required to serve as Commissioners, appropriate the remaining proceeds of such sales of lots to the erection of the necessary public buildings, for the use of the county.

Sec. 2. Be it further enacted, That this act be in force and take effect from and after its passage.

Approved, January 13, 1848.

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#### CHAPTER 15.

An Act appropriating five thousand dollars for the contingent expenses of both Houses of the Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of five thousand dollars be, and the same is hereby appropriated, to pay the contingent expenses of both Houses of the Legislature.

Sec. 2. Be it further enacted, That this act take effect from and after its passage.

Approved, January 14, 1848.

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#### CHAPTER 16.

Joint Resolution appropriating four thousand dollars for the compensation of Assessors of direct taxes for taking the enumeration of the inhabitants of the State, for the year 1847.

Section 1. Be it resolved by the Legislature of the State of Texas, That the sum of four thousand dollars be, and the same

is hereby appropriated for the payment of Assessors and Collectors of taxes, for having discharged the duty of taking the enumeration of the inhabitants of this State for the year 1847; and the certificate of the Secretary of State, that the return has been duly made from any county, and setting forth the number and description of the inhabitants thereof, whether residing in town or county, white or colored, shall be a sufficient voucher for the proper officer to audit the same in accordance with the provisions of the act entitled "an act to provide for the enumeration of the inhabitants of the State of Texas," approved April 11th, 1846.

Sec. 2. Be it further resolved, That this joint resolution shall take effect from and after its passage.

Approved, January, 17, 1848.

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## CHAPTER 17.

### An Act to regulate the Salaries of District Attorneys.

Section 1. Be it enacted by the Legislature of the State of Texas, That the several District Attorneys of this State shall receive an annual salary of five hundred dollars, to be paid quarterly.

Sec. 2. Be it further enacted, That the second section of an "act to regulate the salaries of District Judges and District Attorneys," approved December 31st, 1844, be, and the same is hereby repealed.

Sec. 3. Be it further enacted, That this act shall take effect from and after the thirteenth day of April, A. D. 1848.

Approved, January 24. 1848.

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## CHAPTER 18.

### An Act defining the northern boundary line of Collin county.

Section 1. Be it enacted by the Legislature of the State of

Texas, That the northern boundary line of Collin county shall be as follows, to wit: Beginning on the west line of Fannin county, twenty-two miles south of the mouth of Choctaw Bayou, at the southeast corner of Grayson county; thence west, to the east boundary line of Denton county.

Sec. 2. Be it further enacted, That all laws, conflicting with the provisions of this act, are hereby repealed; and that this act take effect from and after its passage.

Approved, January 24, 1848.

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## CHAPTER 19.

An Act supplementary to an act to organize the county of Upshur.

Section 1. Be it enacted by the Legislature of the State of Texas, That the third section of an act to organize the county of Upshur, be so amended as to read as follows, to wit: That Benjamin Fuller, Miles Robertson, J. R. Taylor, T. C. Hagan, B. Gage, and H. Page be, and they are hereby appointed commissioners, to select two eligible places for the county seat of said county, neither of which shall be more than five miles from the centre thereof; which places shall be submitted to public election at such time and places as may be directed by law; and the place receiving the majority of legal votes cast at said election, shall be the county seat of said county; and shall be known and called by the name of Gilmer: and the said commissioners are hereby empowered to purchase land not exceeding one hundred and sixty acres in quantity, and to receive by donation any amount for said county, for the purpose of erecting public buildings and defraying other necessary expenses.

Sec. 2. Be it further enacted, That the Commissioners or a majority of them, shall, on or before the first Monday in May next, select and nominate the places to be voted for as county seat, and shall cause said places to be published and made known to the people of said county, in time to be voted for on the first Monday of June next: and the election herein provi-

ded for, shall be conducted by the said Commissioners in conformity with the law governing elections at the time.

Sec. 3. Be it further enacted, That within fifteen days after said election, the Commissioners or a majority of them, shall make known the result of the same; publishing the number of votes given for each place; and they shall forthwith proceed to lay off the place selected for the county seat into convenient lots, reserving one in the centre thereof, of such size as they may deem proper, upon which to erect a court house; and one in some other part thereof, upon which to erect a county jail; and shall at such time or times, as may be agreed upon among themselves, offer said lots for sale, upon a credit of twelve months, taking notes with good security, and mortgages upon the property sold, payable to the Chief Justice of said county and his successors in office, for the use of the county, to be applied to the erection of county buildings first, and then to such other purposes as the County Court of said County may direct: Provided, the said Commissioners shall give at least thirty days notice of each and every sale.

Sec. 4. Be it further enacted, That the Commissioners for the services required of them by this act, shall receive the sum of two dollars per day for each and every day they may be in service, to be paid out of the proceeds of the sale of said lots.

Sec. 5. Be it further enacted, That all laws and parts of laws conflicting with the provisions of this act be, and the same are hereby repealed; and that this act take effect from and after its passage.

Approved, January 26, 1848.

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## CHAPTER 20.

An Act authorizing the County Court of Red River County to have the records in Books A, B, and C, of Deeds, Bonds, Mortgages and other instruments of writing now in the office of the Clerk of said County transcribed.

Section 1. Be it enacted by the Legislature of the State of Texas, That the County Court of Red River County, be, and



they are hereby, authorized to employ the County Clerk of the aforesaid County, or some suitable person to transcribe in a well bound book or books, all the matter or writing contained in Books A, B, and C., now in the office of the County Clerk of said County purporting to be records of Deeds, Mortgages and other instruments of writing.

Sec. 2. Be further enacted, That when the duplicate of said record Books, A, B, and C, shall have been made and completed by said county Clerk or other person so employed, it shall be the duty of the said County Court to examine and compare the said duplicate with the original in open Court, and after the said duplicate shall have been compared with the original, and found correct it shall be the duty of said Court to make out a certificate stating that they have examined and compared the said duplicate, with the original Books A, B, and C, and found it to be a true and correct duplicate of the original Books, which certificate shall be signed by all the members of said Court (who examined the same) and be sworn to before a Judge of the District Court, or some Notary Public of said County, which certificate and oath shall be entered of record in said duplicate and placed on file in said office of County Clerk.

Sec. 3. Be further enacted, That after said examination shall have been made, as specified in the foregoing section and certificate of said Court, entered in said duplicate, the same shall be approved of in open Court, which approval shall be entered of record in said duplicate, as well as on the minutes of said Court, and attested by the Clerk of said Court, under the seal of said County of Red River; and it shall be the duty of the Court to take and enclose the original Books, A, B, and C, in good strong paper and seal the same, which seals shall not be broken or envelope taken off, but by order of the District Court.

Sec. 4. Be it further enacted, That all copies made by the Recorder of said County of Red River from said duplicate shall be as valid, and shall have the same force and effect as copies from the original might or could have; and in all Courts of Record, where it may be necessary to bring the original Books A, B, or C, into Court, the producing into Court the aforesaid duplicate shall supercede the necessity of producing the original record into Court.

Sec. 5. Be it further enacted, That the County Court of Red River County are authorized to make an allowance to the

person thus employed to transcribe the aforesaid Books to be paid out of the County funds of said County which allowance shall not exceed ten cents for every hundred words he may transcribe, and two dollars per day during the time of examining and comparing the duplicate with the originals.

Approved, January 26, 1848.

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CHAPTER 21.

An Act to change the name of Robert Franklin Cypert to Robert Franklin Miller.

Section 1. Be it enacted by the Legislature of the State of Texas, That from and after the passage of this act, the name of Robert Franklin Cypert, of San Augustine county shall be altered and changed to Robert Franklin Miller.

Approved, January 26, 1848.

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CHAPTER 22.

An Act to declare the name of Beazley, son of Marcelleat Dugat, and also to legitimate said Beazley.

Section 1. Be it enacted by the Legislature of the State of Texas, That Beazley, son of Marcelleat Dugat, shall be known and called by the name of Beazly Dugat.

Sec. 2. Be it further enacted, That said Beazley Dugat shall be deemed the legitimate son of Eularien Dugat and Marcelleat Dugat, and shall be capable of inheriting and taking at law the estate or estates of said Eularien Dugat and Marcelleat Dugat.

Approved, January 27, 1848.

## CHAPTER 23.

## An Act to create the county of Webb.

Section 1. Be it enacted by the Legislature of the State of Texas, That the territory embraced within the following boundaries, to wit: commencing at a point on the Rio Grande opposite the mouth of the Salado River, and running up the Rio Grande to the point where the municipality of Laredo terminates; thence North 32 deg. East until it strikes the Rio Nueces; thence down said stream to the upper corner of J. T. Doswell's survey, and from thence in a straight line to the place of beginning at the mouth of the Salado, shall constitute a County, and shall be called the County of Webb.

Sec. 2. Be it further enacted, That the town of Laredo shall be the County seat of the County of Webb.

Sec. 3. Be it further enacted, That the above named County shall be organized according to the laws regulating the organization of counties in this State.

Sec. 4. Be it further enacted, That this act take effect and be in force, from and after its passage.

Approved, January 28, 1848.

## CHAPTER 24.

An Act prescribing the proof necessary for the heirs or legal representatives of those who fell under the command of Fannin, Travis, Grant, and Johnson, to obtain their headright certificates.

Section 1. Be it enacted by the Legislature of the State of Texas, That in all suits instituted in the District Courts, under the provisions of the eleventh section of "an act supplementary to an act to detect fraudulent land certificates, and to provide for issuing patents to legal claimants" approved February 4th, 1841, by the heirs or legal representatives of those who fell under the command of Fannin, Travis, Grant, and Johnson, in the spring of one thousand eight hundred and thirty-six,

for the purpose of obtaining head right certificates of the first class, a certificate from the officer having the custody of the archives of the late Department of War and Marine of the Republic of Texas, attested by the seal of his office, that the person in right of whom such headright certificate is claimed, appears from the record of said office to have belonged to the command of either of the aforesaid officers, shall be sufficient proof to authorize the issuance of such headright certificates; and that this act shall be in force from and after its passage.

Approved, February 2, 1848.

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## CHAPTER 25.

Joint Resolution instructing our Senators and requesting our Representatives in Congress to procure the passage of a law to compel the Judge of the United States District Court for the District of Texas, to reside and remain permanently within his District.

Whereas in the opinion of the Legislature of the State of Texas, all Courts are ordained and established for the general good of the people, and the well being of society:

And, whereas, in order to the prompt and proper administration of the laws through the Courts, it is necessary, that the Judges thereof shall at all reasonable times, be found within their several Districts.

And, whereas, the present Judge of the United States District Court for the District of Texas, has since his appointment to that important office remained but a small part of the time within his said District, Therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That our Senators in Congress be instructed, and our Representatives requested to use their influence to have a law passed by the Congress of the United States requiring the Judge of the United States District Court for the District of Texas, to remain within his said District, not less than ten months of each year, on penalty of forfeiting his office.

Sec. 2. Be it further resolved, That the Governor furnish

each of our Senators and Representatives in Congress, with a copy of this Joint Resolution, and that this Joint Resolution take effect from and after its passage.

Approved, February 2, 1848.

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## CHAPTER 26.

Joint Resolution requesting the Senators and Representatives of Texas in Congress of the United States to protest against the relinquishment of the Mexican Provinces or States, conquered by, and in possession of the United States, without indemnity, and also to protest against any law which shall be intended to prevent the citizens of slave-holding States from taking their property with them, in emigrating to said acquired territory.

Section 1. Be it resolved by the Legislature of the State of Texas, That in the opinion of this body, the existing war between the United States and Mexico, was rendered necessary, and was brought on by the acts and outrages of the latter; that its moral responsibilities therefore, must devolve upon that nation alone; and that it would be, under such circumstances, derogatory to the rights and dignity of the United States, to surrender to Mexico, by treaty or otherwise, the Provinces or States of Mexico which she has been compelled to take possession of, and now holds, by right of conquest, unless Mexico shall make complete and full indemnity for the injuries and aggressions which provoked the war, and also for the expenses incurred by the United States in the prosecution of it.

Sec. 2. Be it further resolved, That while such a course on the part of the United States is demanded by every consideration of justice and self respect, it is at the same time the opinion of this Legislature that the territory which may be permanently held by the United States, belongs equally to all the States, and that any attempt by the Federal Government to prevent the citizens of the slave-holding States from taking their property of whatever description with them in emigrating

to, and settling in said acquired territory, would be a violation of the Constitution, an insult to the southern people, and an outrage upon the sacred rights and privileges, which it is the object of all good governments to protect.

Sec. 3. And be it further resolved, That our Senators and Representatives in Congress be requested to protest against and oppose such a relinquishment of territory, and such an unlawful restriction upon the South as alluded to above, and that said members be furnished, each, with a copy of these Resolutions.

Approved, February 2, 1848.

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## CHAPTER 27.

An Act to repeal the laws of the late Republic of Texas creating a Board of Medical Censors.

Section 1. Be it enacted by the Legislature of the State of Texas, That an act, entitled "an act to create a Board of Medical Censors for the Republic of Texas," approved December 14th, 1837; also, an act, entitled "an act supplementary to an act to appoint a Board of Medical Censors," approved December 16th, 1837, be, and the same are hereby repealed.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, February 2, 1848.

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## CHAPTER 28.

Joint Resolution instructing our Senators and requesting our Representatives in Congress to use their influence to procure the incorporation of the officers of the late Navy of Texas into the Navy of the United States.

Whereas, there were connected with the great measure of



our annexation to the Confederacy of which we are now a member, various reciprocal rights and conditions, prescribed by the terms thereof, as well as others clearly implied, and fairly deducible from the same, all of which Texas has on her part fully and completely redeemed:

And, whereas, it is the opinion of this Legislature, that the officers of our late Navy, by a liberal and just, if not by a strictly legal construction of the terms of annexation, should be incorporated into the Navy of the United States, in their several ranks, and that they are justly entitled to the same, as well from the construction here claimed as from their high character, personal and professional, and the zeal, fidelity, patriotism and valor, with which they sustained the cause of their country while its Navy was in existence; Therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That our Senators are hereby instructed, and our Representatives in Congress requested to use their influence to procure the passage of a law by the Congress of the United States, incorporating the officers of the late Navy of Texas, into the Navy of the United States in the rank which they severally held in the late Navy of Texas.

Sec. 2. Be it further resolved, That the Governor be requested to cause copies of this Joint Resolution, to be immediately forwarded to each of our Senators and Representatives in Congress.

Approved, February 2, 1848.

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## CHAPTER 29.

An Act to create a lien on domestic vessels for supplies and materials furnished them, and for repairs and labor done thereon.

Section 1. Be it enacted by the Legislature of the State of Texas, That every person who may furnish supplies or materials, or do repairs or labor, for or on account of any domestic vessel, owned in whole or in part in this State, shall have a lien on such vessel, her tackle, apparel, furniture, and freight money, for the security and payment of the same.

Sec. 2. Be it further enacted, That the provisions of the first section of this act, shall not be construed to alter or affect in any way the general law regulating the liens of seamen, or liens on foreign vessels.

Approved, February 3, 1848.

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## CHAPTER 30.

### An Act to provide for locating the Seat of Justice for the County of Newton.

Whereas, an act to create the County of Newton, approved on the 22d of April, 1846, and the third and fourth sections of said act, created a Board of Commissioners, and provided for the mode of selecting and creating a Seat of Justice for said County:

And whereas, the inhabitants of said County have failed to create a Seat of Justice for said County under the provisions of said act: Therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the County Seat of Newton County shall be established and located, on a tract of land belonging to John R. Burke, on the waters of Little Cow Creek, and on the North East corner of a league of land known as the head-right of Richard Simmons.

Sec. 2. Be it further enacted, That the Seat of Justice for said County shall be styled and known by the name of Burkeville.

Sec. 3. Be it further enacted, That the Chief Justice and County Commissioners of the County Court of Newton, be authorized to receive by donation from John R. Burke, lands for public buildings for said county, and also for public schools and for other purposes.

Sec. 4. Be it further enacted, That all courts of law and equity for said County of Newton be required to be held at the town of Burkeville in said County.

Sec. 5. Be it further enacted, That this act be in force and take effect from and after its passage, and that all laws con-

flicting with the provisions of this act be and the same are hereby repealed.

Approved, February 10, 1848.

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#### CHAPTER 31.

##### An Act to create the County of Starr.

Section 1. Be it enacted by the Legislature of the State of Texas, That all that territory within the present county of Nueces, fronting on the Rio Grande, and not included in the counties of Webb, Cameron, and Nueces be, and the same shall constitute a County to be called the County of Starr.

Sec. 2. Be it further enacted, That the town of Rio Grande shall be the County Seat of the County of Starr.

Sec. 3. Be it further enacted, That the above named County shall be organized according to the laws regulating the organization of Counties in this State.

Sec. 4. And be it further enacted, That this act take effect and be in force from and after its passage.

Approved, February 10, 1848.

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#### CHAPTER 32.

##### An Act to locate the County Seat of Navarro County.

~~SECTION 1. Be it enacted by the Legislature of the State of Texas, That Thomas I. Smith, William F. Henderson, Ethan Melton, James A. Johnson, and James Riggs, be, and they are hereby appointed Commissioners, whose duty it shall be to select the most suitable portion of the survey marked on the map of the Robertson land District in the name of G. A. Campbell, of one third of a league, situate on a southern tributary of Pecan Creek in the neighborhood of what is known as Rich-~~

ardson's settlement, and the point thus selected, shall be, and the same is hereby declared the County Seat of Navarro County, to be called by the name of Corsicana; and the various Courts of said County shall be held thereat, and all process civil and criminal shall be returnable thereto, which may be issued after the first day of March, 1848, and that this act, shall not be construed so as to effect any writ, process, or other proceeding in any of the Courts of said County.

Sec. 2. Be it further enacted, That a majority of said Commissioners shall have full power to transact any business contemplated by this act.

Sec. 3. Be it further enacted, That the said Commissioners shall purchase at the expense of said County, not exceeding one hundred and sixty acres of land, except the same can be procured by donation, in which case an amount not exceeding six hundred and forty acres, may be secured to lay off the same or such portion thereof as to them may seem proper, in convenient lots and squares, and dispose of the same by public sale, reserving suitable lots or squares for the use of a Court House, Offices for the County Officers, Jail, School Houses, and Churches, in the discretion of said Commissioners and to make titles to any purchaser, and to the County, of the reserves, specifying the object of the reserve; to erect a Court House and Offices for the Clerks, and a jail, and such other public buildings, as to the said Commissioners may seem necessary, and to apply the proceeds of the sale of lots in payment therefor, and to perform generally whatever may be necessary to carry out the intent and meaning of this act.

Sec. 4. Be it further enacted, That it shall be the duty of said Commissioners to make a full exhibit of their proceedings to the County Court of said County, within eighteen months from the passage of this act, at which time their functions shall cease, unless the County Court shall extend the time of their services.

Sec. 5. Be it further enacted, That all laws and parts of laws contravening the provisions of this act, be and they are hereby repealed, and that this act take effect from and after its passage.

Approved. February 12. 1848.



## CHAPTER 33.

## An Act better defining the boundaries of Nueces County.

Section 1. Be it enacted by the Legislature of the State of Texas, That the County of Nueces shall hereafter have the following bounds and limits, to wit: Commencing at the northeast corner of Webb County on the Nueces river; thence down said stream to its mouth; thence along the coast to the mouth of the Olmos creek; thence in a northwesterly course on a direct line, until it intersects midway the lower boundary line of Webb county; thence along said line to the place of beginning.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, February 12, 1848.

## CHAPTER 34.

## An Act to define the county boundaries of Goliad County.

Section 1. Be it enacted by the Legislature of the State of Texas, That all territory comprised within the limits hereinafter prescribed, shall form and compose the County of Goliad, to wit: Beginning on the Coletto creek, on the line of Refugio district, being the upper line as run by William Richardson, deputy surveyor of Refugio county, and running with said line to the Aransas river; thence up said river with the meanders, to the crossing of the Mier road; thence N. W. to the line of Bexar district; thence with said line to the San Antonio river, at the mouth of the Cibolo; thence N. 15 deg. East to the Gonzales district line; thence with said line South Easterly to the intersection of the N. W. boundary of De Witt County; thence with said boundary S. 51 deg. W. to the W. corner thereof, as established by an act of the Legislature in 1848; thence S. 39 deg. E. with the S. W. boundary line of De Witt County, to a point S. 51 deg. W. of the S. corner of Gonzales district; thence N. 51 deg. E. to the Coletto creek, and down the same to the beginning.

Sec. 2. Be it further enacted, That this act take effect, and be in force from and after its passage, all laws and parts of laws to the contrary notwithstanding.

Approved, February 12, 1848.

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CHAPTER 35.

A Bill to be entitled An Act to create the county of Cameron.

Section 1. Be it enacted by the Legislature of the State of Texas, That all the territory embraced within the following limits, to wit; Commencing at the mouth of Olmos creek on the coast, being the southern point of the county of Nueces, and running thence along the coast of the Gulf to the mouth of the Rio Grande; thence up the Rio Grande to a point where the upper line of the municipality of Reinosá strikes the same; thence in a North Easterly direction until it strikes the South Western boundary of Nueces County at right angles; thence South Easterly along the same, to the place of beginning, shall constitute the County of Cameron.

Sec. 2. Be it further enacted, That the town of Santa Rita shall be the County seat of the County of Cameron.

Sec. 3. Be it further enacted, That the above named county shall be organized according to the laws regulating the organization of Counties in this State.

Sec. 4. And, be it further enacted, That this act take effect and be in force from and after its passage.

Approved, February 12, 1848.

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CHAPTER 36.

An Act creating the County of Medina.

Section 1. Be it enacted by the Legislature of the State of Texas, That all that territory included within the County of

Bexar, beginning on the South bank of Medina river, at the upper corner of a league survey No. 25, made for Wm. E. Howth, assignee of Maria Jesusa Hernandez, being the lower corner of survey No. 26 in the name of Julia Contes; thence, South 16 miles; thence West 36 miles; thence north 36 miles; thence East to the Medina river; thence down the Medina on its West bank to the beginning, be, and the same is hereby created a new County, to be known and called by the name of Medina.

Sec. 2. Be it further enacted, That the town of Castroville on the West bank of the Medina river, be, and the same is hereby established as the County seat of said County of Medina.

Sec. 3. Be it further enacted, That it shall be the duty of the Chief Justice of Bexar County to cause an election to be held on the second Monday of July, 1848, in accordance with the method prescribed by an Act to provide for the organization of the several counties in the State, approved, April 11, 1846, (for the purpose of electing County officers) for the County of Medina.

Sec. 4. Be it further enacted, That this act take effect from and after its passage.

Approved, February 12, 1848.

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## CHAPTER 37.

An Act to amend the third section of an act, providing for the transfer of the records of administrators to new Counties, approved 13th May, 1846.

Section 1. Be it enacted by the Legislature of the State of Texas, That the third section of an act providing for the transfer of records of administrators to new Counties, approved 13th May, A. D. 1846, be so amended as to read as follows, to wit: In all cases when the papers and proceedings, relating to the settlement of an estate, shall be transmitted to any Court in the manner provided for in this act, such estate shall be proceeded in and settled in the Probate Court of such County, in

like manner as if the settlement of such estate had been originally commenced in such County, and the transcript of the record transmitted in the manner provided for in this act, shall have the same force and effect in evidence as the record itself might or could have: Provided, that the provisions of this act shall not extend to the Counties of Jackson, Victoria, Gonzales, Bexar, Goliad, Refugio, and San Patricio.

Sec. 2. Be it further enacted, That this act take effect from its passage.

Approved, February 14, 1848.

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#### CHAPTER 38.

An Act to amend the third section of an Act, entitled "an Act concerning Slaves," approved February 5th, 1840.

Section 1. Be it enacted by the Legislature of the State of Texas, That the third section of an Act, entitled an Act concerning slaves, approved February 5th, 1840, be so amended as to read as follows, to wit: That if any person or persons shall cruelly or unreasonably treat or abuse any slave belonging to him, her or them, or to another or others, he she, or they and each of them shall be liable to indictment or presentment, as for a misdemeanor, in the District Court, and on conviction thereof, may be fined for each and every such offence, not less than twenty dollars, nor more than five hundred dollars.

Approved, February 14, 1848.

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#### CHAPTER 39.

Joint Resolution, authorizing the Comptroller of Public Accounts to provide a residence in the City of Austin for the use of the Governor of the State.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Comptroller of Public Accounts be, and he is

hereby authorized to provide a suitable residence for the accommodation of the Governor of the State; provided the expense shall not exceed five hundred dollars annually.

Sec. 2. Be it further resolved, That the Comptroller, for said purpose, shall be authorized to make use of one of the buildings belonging to the State, or rent a private building, as he may think best and most convenient for the Governor.

Sec. 3. Be it further resolved, That the Comptroller be required to collect all the furniture heretofore belonging to the President's House, that can be come at, to furnish said residence so provided for the Governor.

Sec. 4. And be it further resolved, That this joint resolution be in force from and after its passage.

Passed, February 16, 1848.

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#### CHAPTER 40.

An Act to amend an Act, entitled "an Act to prescribe the time of the biennial meeting of the Legislature of the State of Texas."

Section 1. Be it enacted by the Legislature of the State of Texas, That the first section of the above, entitled Act, approved 11th April, A. D. 1846, be so amended as to read thus:

Section 1. Be it enacted by the Legislature of the State of Texas, That the Legislature of the State of Texas, shall meet at the Seat of Government thereof and begin their next biennial Session on the first Monday in November, A. D. 1849, and biennially thereafter on the same day, until otherwise prescribed by law.

Approved, February 18, 1848.

CHAPTER 41.

An Act to define the boundary lines of the County of Matagorda.

Section 1. Be it enacted by the Legislature of the State of Texas, That the boundary lines of the County of Matagorda, shall hereafter be as follows: Beginning at the entrance of Cedar Lake, into the Gulf of Mexico; thence up said lake with the Western boundary line of Brazoria County, and along said line to the North West corner of a league of land granted to Garrett, on the lower line of league No. 12, granted to S. Ingram; thence in a South Westward direction to the Southwest corner of a league of land, granted to Edwards; thence South, sixty degrees West, with the lower line of Wharton County to its junction with the Eastern boundary line of Jackson County; thence down said Eastern County line of Jackson County to its junction with the Calhoun County line; thence with the Calhoun County line to the Southeast corner of J. Hughson's league on Matagorda bay; thence in a line to the main Matagorda pass, so as to include all the Peninsula and Pelican Island; thence Eastwardly around the shore of the Gulf of Mexico, to the place of beginning.

Sec. 2. Be it further enacted, That all laws conflicting with the provisions of this Act, be, and the same are hereby repealed, and this Act shall take effect from and after its passage.

Approved, February 18, 1848.

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CHAPTER 42.

An Act to change the name of Thomas Harvey to Thomas Harvey Forrester.

Section 1. Be it enacted by the Legislature of the State of Texas, That the name of Thomas Harvey of Matagorda County, be changed and altered to that of Thomas Harvey Forrester.

Sec. 2. Be it further enacted, That this act take effect from and after its passage.

Approved, February 18, 1848.

## CHAPTER 43.

Joint Resolution authorizing and requiring the Governor to subscribe for three hundred copies of the Reports of Decisions of the Supreme Court of this State.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Governor be, and he is hereby authorized and required, to subscribe for three hundred copies of the decisions of the Supreme Court of this State, now being prepared for publication by a Reporter appointed by said Court, provided, that the cost shall not exceed six dollars per volume.

Sec. 2. Be it further resolved, That a sufficient amount be, and is hereby appropriated for the payment of said Reports, which shall be paid on the warrant of the Comptroller, out of any money in the Treasury, not otherwise appropriated, whenever the Governor shall certify that said Reports have been delivered.

. Approved, February 18, 1848.

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CHAPTER 44.

An Act to organize the Militia of the County of Newton.

Section 1. Be it enacted by the Legislature of the State of Texas, That the inhabitants of the County of Newton, subject to do military duty, shall constitute one Battalion for Military purposes, and be entitled to elect all the officers to which one Battalion may be entitled by "an act to organize the Militia of the State of Texas," approved 21st April, A. D. 1846.

Sec. 2. Be it further enacted, That the Militia of said County shall be included in the same Military division to which the Militia of the County of Jasper belongs.

Sec. 3. Be it further enacted, That the election for officers of said Battalion shall take place on the day, and in the same manner as elections for County officers.

Sec. 4. Be it further enacted, That all laws and parts of



laws, conflicting with the provisions of this Act, be, and the same are hereby repealed.

Approved, February 18, 1848.

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CHAPTER 45.

Joint Resolution requiring the Attorney General to investigate the condition of the titles to the various Islands within the limits of Texas, and if it be expedient to cause legal proceedings to be instituted against persons claiming the same, adversely to the State.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Attorney General, be required to investigate the condition of the claim and title of the State, to the various Islands included within the limits and jurisdiction of Texas, as defined by the laws of the late Republic, and if in his judgment it be expedient, to cause legal proceedings to be instituted in the proper State Courts against any person or persons, claiming any Islands or parts of Islands, adversely to the State, for the purpose of determining the validity of such claims, and that he report his proceedings in the premises, and such information as he may obtain to the Governor, annually, that the the same may be transmitted to the next Legislature.

Approved, February 21, 1848.

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CHAPTER 46.

Joint Resolution instructing our Senators and requesting our Representatives in the Congress of the United States to procure additional Mail Service.

Section 1. Be it resolved by the Legislature of the State of Texas, That our Senators be instructed, and our Representa-

tives requested, to procure the establishment of the following additional Mail Routes, viz:

1st. From the City of Austin to Fort Towson, via the Falls of the Brazos, Springfield, Tiwackany Hills, Corsicana, Porters Bluff, Paris, and from Springfield via Buffaloe on Trinity River, once a week.

2d. From Cameron in Milam County, to Crockett, via Nashville, Wheelock, Leona, and Alabama, once a week.

3d. From Buffaloe to Washington via Fanthorps, once a week.

4th. From Porters Bluff on Trinity River, in Navarro County to Marshall, via Tyler in Smith County, and Gilmer and Wilburns in Upsher County, once a week.

5th. From Clarksville to Shreveport, via Marshall and Jefferson once a week, in Coaches.

6th. From Sabine Pass, to San Augustine via Beaumont, Erin, Big Creek, Jasper, Zavalla, Lowe's Mills, Norvill's and Kendrick's.

7th. From Sabine to Huntsville, via Burkeville, Newton C. H., Jasper, Bevil Port, Ratliff's, Wilson's, Greene's, Livingston, Polk C. H., Swartwout and McGee's.

8th. From Gonzales to Goliad.

9th. From Hodge's Post Office, in Fort Bend County to Arnold's P. O. in Austin County, via Gaston's, Wade's, and Stephen Tippet's, once a week.

10th. From Houston to Gonzales, via Richmond, Columbus, and Petersburg.

11th. From Galveston to Columbia, via Virginia Point, Liverpool, Gustavus, Burtrand's, Parker's Point, and Garen Hine's.

12th. From Pass Caballo to Corpus Christi, via Lamar, Copano, and Aransas Pass.

13th. From Lagrange to Goliad, via Chisholm's Ferry.

14th. From Indian Point, to Victoria.

15th. From San Antonio to Victoria, via Goliad, once a week.

16th. From Refugio to Lamar.

17th. From Columbia to Matagorda, via Brazoria, Cedar Lake, and Caney, once a week.

18th. From Port Caddo to Mooresville, in Bowie County, via Clinton in Cass County.

19th. From Lagrange to Texana, via Lyon's, Petersburg, and Kerra, once a week.

20th. From Houston via Fanthorp's to Springfield.

21st. From Galveston to San Augustine, via Anahuac, Liberty, and Livingston.

22d. Increase the service on Routes from Galveston to Austin, three times a week.

23d. Change the Route from Washington to LaGrange, via Independence, Brenham and Montville.

24th. From Port Lavacca, via Victoria, Cuero, Gonzales, Seguin, New Braunfels, to San Antonio, twice a week.

24th. From San Antonio to Laredo.

26th. From Austin, via Youngs's Settlement, to Caldwell, once a week.

27th. From San Antonio to Castroville, once a week.

28th. From Braunfels to Fredericksburg, once a week.

29th. From Washington via Fanthorps to Huntsville, once a week, in coaches.

30th. From San Felipe to Washington via new County Seat of Austin County, once a week.

31st. From Corpus Christi to the County Seat of Cameron County, once a week.

32d. From Corpus Christi to Rio Grande City, once a week.

33d. From Corpus Christi to Laredo, once a week.

34th. From the mouth of the Rio Grande to Laredo by Steam Boat or land, via Rio Grande City, once a week.

Approved, February 21, 1848.

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## CHAPTER 47.

An Act to create the County of Gillespie, so named in honor of Captain Robert A. Gillespie, who fell at the battle of Monterey.

Section 1. Be it enacted by the Legislature of the State of Texas, That all that territory in Bexar County included within the following limits, to wit; Beginning on the South bank of the Pierdenales river. at the point where the dividing line of

the Counties of Bexar and Travis crosses said river; thence with said dividing line North, seventeen degrees East, sixty-seven thousand seven hundred and fifty varas; thence West, one hundred and two thousand and sixty-eight varas; thence South eighty-two thousand varas; thence East seventy-seven thousand varas. to the said dividing line of the counties of Bexar and Travis; thence North, seventeen degrees East, along said dividing line, one thousand eight hundred varas to the place of beginning, be, and the same is hereby created a new county to be called the county of Gillespie, in honor of Captain Robert A. Gillespie, who fell at the battle of Monterey.

Sec. 2. Be it further enacted, That the town of Fredericksburg shall be the County Seat of the said County of Gillespie.

Sec. 3. Be it further enacted, That it shall be the duty of the Chief Justice of Comal County to order an election to be held in the town of Fredericksburg on the first Monday of June next, for the several County Officers, of the said County of Gillespie, said election to be, in all respects conducted in conformity to the general election laws, and the returns of the said election shall be made to the Chief Justice of Comal County, whose duty it shall be to issue certificates of election to the persons entitled to receive the same.

Sec. 4. Be it further enacted, That the County Court of said County of Gillespie, shall organize and hold its first session on the second Monday in July next and shall then, or as soon after as practicable elect a County Treasurer, and divide the County into convenient Precincts for the election of Justices of the Peace and Constables.

Sec. 5. Be it further enacted, That this act take effect from and after its passage.

Approved, February 23, 1848.

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## CHAPTER 48.

An Act to establish the Seat of Justice of Denton County.

Section 1. Be it enacted by the Legislature of the State of Texas, That the County Seat of Denton County, shall be on

Section one, Township No. four North, in Range No. three West in Peter's Colony.

Sec. 2. Be it further enacted, That Joseph Turner, Jesse Gibson, John Ramsey, James Dickson, and John W. King, be, and they are hereby appointed Commissioners, a majority of whom shall appoint \_\_\_\_\_ quorum for the transaction of business, whose duty it shall be to receive by donation or purchase so much of said Section No. one, in Township No. four, as will be sufficient for a County Seat, not less than forty acres, for the use of said county of Denton, and the place so selected shall be known and called Alton.

Sec. 3. Be it further enacted, That said Commissioners shall proceed to lay off a town, on said tract of Land into lots of convenient size, and sell the same at public auction on a credit of twelve months payable to the county of Denton, and the funds arising from the sale of lots or other donations shall be applied by the Commissioners herein created to the erection of public buildings for the use of said county.

Sec. 4. Be it further enacted, That the District and County Courts for the County of Denton shall be held at the town of Alton, and all writs heretofore issued returnable to Pinckneyville shall be returned to and tried at the town of Alton, and that all laws conflicting with this act, be, and they are hereby repealed, and that this act take effect from and after the first day of June, 1848.

Approved, February 24, 1848.

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## CHAPTER 49.

An Act Supplementary to an act, entitled "an act to create the County of Smith," approved, April 11th, 1846.

Section 1. Be it enacted by the Legislature of the State of Texas, That an act entitled "an act to create the county of Smith," approved April 11th, 1846, be so amended as to read: That it shall be the duty of the Commissioners appointed by the above recited act, to pay out of the proceeds of the sale of

town lots the County Seat of said County, the amount stipulated by them to the contractors for building a Court House in said county, and to sell the remainder of said lots if any there be, and apply the proceeds thereof to the completion of a good and substantial Court House and Jail, and such other public buildings as they may deem necessary for the use of said county; to pay over to the County Treasurer of said county the overplus if any, after paying the necessary expense incurred by them in carrying out the provisions of this act.

Sec. 2. Be it further enacted, That all the acts and doings of said Commissioners in relation to the building of the Court House in said county, be and they are hereby legalized and made valid as if provided for in the above recited act.

Sec. 3. Be it further enacted, That all laws conflicting herewith be repealed, and that this act take effect from and after its passage.

Approved, February 26, 1848.

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## CHAPTER 50.

### An Act to establish the County Seat of Grimes County.

Section 1. Be it enacted by the Legislature of the State of Texas, That there shall be an election held at the several precincts in Grimes County on the first Monday in May next, for the location of a seat of justice for said County, which shall be ordered by the Chief Justice of said county and conducted in conformity to law.

Sec. 2. Be it further enacted, That it shall be the duty of the County Court of said County to receive and make public, at the different public places in said county, by posting up advertisements, at least one for each election precinct, such propositions as may be offered as inducements in favor of the selection of places proposed as suitable locations for the County Seat of said county.

Sec. 3. Be it further enacted, That all propositions submitted to the County Court, in compliance with the second section

of this act, shall be in the nature of penal bonds, payable to the Chief Justice of said County and his successors in office, recoverable in the District Court in and for said County, for the use of the County.

Sec. 4. Be it further enacted, That the said County Court may receive donations of lands, by deeds or bonds made to the Chief Justice of said county and his successors in office, which land shall be the property of the county, and the proceeds of the sale thereof applied to the erection of county buildings.

Sec. 5. Be it further enacted, That when the returns of said election shall be made in conformity with law, the County Court shall meet at the usual place of holding courts, and count the number of votes given for each of the places put in nomination, and if any one of them shall have received a majority of all the votes polled at said election, the same shall be declared the seat of justice for the County of Grimes: but if neither place shall have received a majority of all the votes, the Chief Justice shall put in nomination the two places which have received the highest number of votes, and advertise another election, by giving at least ten days notice, stating the two places put in nomination: On the return day of said second election, the Court shall meet and count the votes given, and the one having received the highest number of votes shall be declared the seat of justice of Grimes County. Provided the county seat shall be located within seven miles of the centre of said county, and shall be called and known by the name of Anderson.

Sec. 6. Be it further enacted, That the County Court of said County shall have the land so donated and conveyed laid off into town lots of convenient size, order the sale and apply the proceeds to the building of such necessary public buildings as in their discretion may be most conducive to the interest and advantage of the County.

Sec. 7. Be it further enacted, That so soon as the necessary offices are erected by the court, or its order, the county officers shall remove thereto, with their records, books, papers, &c.: all courts thereafter shall be held at said town of Anderson.

Approved, February 26, 1848.

## CHAPTER 51.

An Act to define more correctly the boundaries of De Witt County.

Section 1. Be it enacted by the Legislature of the State of Texas, That all the territory comprised within the limits hereinafter prescribed shall form, and compose the county of De Witt, to wit: Beginning at the lower corner of a survey of one-fourth of a League of land granted to Jesse McCoy, standing on the North East bank of Guadalupe River in Gonzales County; thence running North fifty-one degrees East seven thousand three hundred varas; thence running South thirty-nine degrees East forty-seven thousand varas; thence running South fifty-one degrees, West to the intersection of the Coleta creek; thence up the Coleta to the intersection thereof by the District line of Gonzales District; thence South fifty-one degrees West to a point that will be South fifty-one degrees West eighty-two thousand varas from the North East boundary line of said county; thence North thirty-nine degrees West to the intersection of a line running South fifty-one degrees West from the one-fourth of a league of land granted to Jesse McCoy; thence North fifty-one degrees East to the place of beginning.

Sec. 2. Be further enacted, That this act take effect and be in force from and after its passage, and that "an act creating the county of De Witt," approved March 24th 1846, be, and the same is hereby repealed.

Approved, February 26, 1848.

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CHAPTER 52.

An Act to create the County of Kaufman.

Section 1. Be it enacted by the Legislature of the State of Texas. That the following be and they are hereby established, as the permanent boundaries of a new County, to be known and called by the name and style of Kaufman, to wit; beginning on the North East corner of Dallas County, and running thence, South, with the East boundary line of said County, to the Trinity River, thence down said river to a point on the



same, eight miles on due course from the first corner on said River, thence north forty-five degrees to a point due East of the South East corner of Dallas County as established by Albert J. Walker, thence due East to a point thirty six and one half miles East of said South East Corner of Dallas County, thence due North to the South boundary line of Hunt County; thence West with the South boundary of Hunt County, to the South West corner of the Same; thence due North to the South East corner of Collin County; thence West with the South boundary of Collin County to the place of beginning.

Sec. 2. Be it further enacted, That Parson ——— Sherwood, John J. Buck, Senr., Adam Sullivan, Parson H. J. McKensie, William Price, S. G. Parsons, and Abner Johnson be and they are hereby appointed Commissioners, with authority to select, not exceeding three places to be put in nomination as the County site of said County, one of which shall be at the center of said County to be ascertained by actual survey; which survey said Commissioners are hereby authorized to have made at the expense of the County, and the other two places shall be within five miles of the center of said County, the said Commissioners shall then proceed to order an election, between the different places, put in nomination for the County site of said County, by giving a written notice to be posted up at not less than five public places in said County for the term of one month, which notice shall specify the different places put in nomination, and the election shall be governed according to the laws regulating elections generally, and the returns made to the Commissioners herein appointed at a day and place to be named in the writs of election, not to exceed ten days from and after the day of election, and said election returns shall not be opened by less than a majority of said Commissioners, when if any place nominated or voted for, within five miles of the centre shall receive a majority of all the votes polled, it shall be duly declared to be the County Seat of said County by said Commissioners, but if no place receive a majority of all the votes given, then the said Commissioners shall put in nomination, the two places that received the highest number of votes, at the first election, giving fifteen days notice of said election by posting up notices at not less than five public places in said County, the result of which shall be ascertained, as in the first election, provided for, in this act, and the place receiving the highest number of votes shall be declared by said

Commissioners the County Seat of said County and the said Commissioners are hereby required to order the first election contemplated by this act, on the first day of April next, or as soon thereafter as this act shall come to their knowledge.

Sec. 3. Be it further enacted, That the Commissioners herein appointed are required to take into consideration, in the nomination of places for a County Seat, donations in land or money as well as eligibility of site, timber and water.

Sec. 4. Be it further enacted, That should said Commissioners select a tract of vacant and unappropriated land, on which to locate said County seat, they shall proceed to condemn to the use of the County, a tract of not more than five hundred acres of land, and this act shall be a sufficient authority to any authorized surveyor to survey for said County, the amount of land pointed out by said Commissioners, not to exceed five hundred acres in a square form, if preexisting lines will admit of that shape, and when said Commissioners, their successors, or agent, shall present to the Commissioner of the General Land Office the receipt of the State Treasurer, for the sum of fifty cents an acre, in gold or silver for the amount of land contained in the survey authorized by this act to be made, then said Commissioner of the General Land Office shall issue a patent to the County of Kaufman for said land.

Sec. 5. Be it further enacted, That the said Commissioners or their successors, or a majority of them, be, and they are hereby authorized to lay out a town on said tract to be known and called by the name and style of Kaufman, reserving a suitable public square for a Court House and suitable lots for a Jail and such other public buildings as they may deem necessary for the use of the County; and sell the other lots and lands to the highest bidder at such time or times, and such terms and conditions as they may deem best for the interest of the County; the proceeds of which sales shall be applied to the erection of public buildings for the use of the County by said Commissioners or their legal successors, provided, that after the erection of suitable public buildings, the remainder of the proceeds derived from the sale of lots and lands may be transferred to the ordinary County fund.

Sec. 6. Be it further enacted, That said Commissioners shall at their first meeting select from among themselves a presiding officer, who when elected shall have power to convene the other Commissioners to transact any business required

of them by this act, a majority of whom in all cases may act, and said Commissioners before they enter upon the discharge of the several duties herein required, shall take an oath, faithfully and impartially, to discharge the duties required of them by this act, before some acting Justice of the Peace.

Sec. 7. Be it further enacted, That whenever the County Court of Kaufman County, shall be properly organized, it shall be the duty of the Chief Justice to notify the Commissioners herein appointed to come forward and make a settlement with the County Courts, and a surrender of their books as commissioners of said County, together with a full and fair statement of all the sales made, moneys and liabilities received, and moneys paid out, and thereafter their authority as Commissioners shall cease and their duties shall devolve upon the County Court.

Sec. 8. Be it further enacted, That the citizens of Kaufman County are entitled to all the privileges, offices and Courts, that other Counties in this State are entitled to.

Sec. 9. Be it further enacted, That it shall be the duty of the Chief Justice of Henderson County at the time he orders the election for County officers of Henderson County for the regular election in July A. D. 1848, to also order the election of all County officers of Kaufman County, and the votes polled in Kaufman County, shall be returned to the Chief Justice of Henderson County, who shall issue certificates of election to the officers elect of Kaufman County, at the time and in the manner, that he is required to issue certificates of election to the officers of Henderson County.

Sec. 10. Be it further enacted, That the Commissioners herein appointed shall be allowed and paid out of the county Treasury of Kaufman county, the sum of one dollar per day, each, for every day they may be necessarily employed in the discharge of the duties herein assigned them.

Sec. 11. Be it further enacted, That this act shall take effect and be in force from and after its passage.

Approved, February 26, 1848.

## CHAPTER 53.

An Act to establish the Judicial Districts of the District Courts.

Section 1. Be it enacted by the Legislature of the State of Texas, That the following named Counties, shall compose the first Judicial District, to wit: Matagorda, Wharton, Colorado, Austin, Fort Bend, Brazoria and Galveston.

Sec. 2. Be it further enacted, That the following named Counties shall compose the second Judicial District, to wit: Gillespie, Comal, Guadalupe, Fayette, Bastrop, Travis, Caldwell and Hays.

Sec. 3. Be it further enacted, That the following named Counties, shall compose the third Judicial District, to wit: Brazos, Robertson, Leon, Limestone, Navarro, Milam, Burleson and Washington.

Sec. 4. Be it further enacted, That the following named Counties shall compose the fourth Judicial District, to wit: Bexar, Medina, Webb, Starr, Cameron, Nueces, San Patricio and Refugio.

Sec. 5. Be it further enacted, That the following named Counties shall compose the fifth Judicial District, to wit: Nacogdoches, Shelby, Angelina, Sabine, San Augustine, Jasper and Newton.

Sec. 6. Be it further enacted, That the following named Counties, shall compose the sixth Judicial District, to wit: Rusk, Upshur, Smith, Cass, Harrison, Panola and Cherokee.

Sec. 7. Be it further enacted, That the following named Counties shall compose the seventh Judicial District, to wit: Harris, Montgomery, Walker, Grimes, Liberty, Polk, Tyler, and Jefferson.

Sec. 8. Be it further enacted, That the following named Counties shall compose the eighth Judicial District, to wit: Bowie, Red River, Titus, Lamar, Hopkins, Hunt and Fannin.

Sec. 9. Be it further enacted, That the following named Counties shall compose the ninth Judicial District, to wit: Grayson, Collin, Denton, Dallas, Kaufman, Henderson, Anderson, Houston and Van Zandt.

Sec. 10. Be it further enacted, That the following named Counties shall compose the tenth Judicial District, to wit: Gonzales, Calhoun, Victoria, Lavaca, De Witt and Goliad.

Sec. 11. Be it further enacted, That all laws and parts of laws conflicting with the provisions of this act, be, and the same are hereby repealed, and that this act take effect and be in force from and after the first day of August next.

Approved, February 26, 1848.

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#### CHAPTER 54.

An Act to be entitled "An Act prescribing in what cases, the Governor may remit fines and forfeitures."

Section 1. Be it enacted by the Legislature of the State of Texas, That after conviction the Governor shall without restriction have power to remit fines and forfeitures of a pecuniary character at his discretion, provided, that he shall report to the Legislature all cases in which he has remitted such penalties with his reasons for doing the same.

Sec. 2. Be it further enacted, That after conviction the Governor shall have power to remit forfeitures of lands or of rights and privileges, or of forfeitures of any character whatever, known to our laws, whenever he shall be memorialized by the Legislature in a Joint Resolution setting forth the character of the forfeiture which they may wish remitted.

Sec. 3. Be it further enacted, That this act shall be in force and take effect from and after its passage.

Approved, February 26, 1848.

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#### CHAPTER 55.

An Act to remove the Land Office of the Robertson Land District from Franklin in Robertson county to Springfield in Limestone County.

Section 1. Be it enacted by the Legislature of the State of Texas, That it shall be the duty of the District Surveyor of the

Robertson Land District to cause all the records, maps and other documents belonging to, or in any wise connected with the Land Office of the Robertson Land District, together with the desks, tables and other furniture belonging thereto, to be removed to the town of Springfield in Limestone County as soon as practicable, and the said Land Office shall remain and be kept at said town until otherwise ordered by law.

Sec. 2. Be it further enacted, That all laws or parts of laws conflicting with this act, be, and the same are hereby repealed, and that this act take effect from and after its passage.

Approved, February 29, 1848.

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## CHAPTER 56.

An Act to be entitled an act to amend the first, third and seventh sections of "an act to define the time of holding the Courts in the several Judicial Districts of the State of Texas," passed May 11th, 1846.

Section 1. Be it enacted by the Legislature of the State of Texas, That the first section of "an act to define the time of holding the Courts in the several Judicial Districts of the State of Texas," passed May 11th, 1846, shall be and is hereby amended, so that it shall hereafter read as follows, to wit:

That a District Court shall be held in each county of this State twice in each year; and such Court shall commence on the days, and may continue for the terms hereinafter specified.

The Courts in the first Judicial District shall commence,

In the county of Matagorda, on the first Mondays in April and October, and may continue in session one week.

In the County of Wharton, on the second Mondays in April and October, and may continue in session one week.

In the county of Colorado, on the third Mondays in April and October, and may continue in session one week.

In the county of Austin, on the first Mondays after the third Mondays in April and October, and may continue in session one week.

In the County of Fort Bend, on the second Mondays after the

third Mondays in April and October, and may continue in session one week.

In the County of Brazoria, on the third Mondays after the third Mondays in April and October, and may continue in session two weeks.

In the County of Galveston, on the fifth Mondays after the third Mondays in April and October, and may continue in session until the business of the Court is disposed.

Sec. 2. That the third section of said act shall be and is hereby amended, so that it shall hereafter read as follows to wit:

That the Courts in the third Judicial District shall commence,

In the County of Brazos, on the first Mondays in March and September, and may continue in session one week.

In the County of Leon, on the second Mondays in March and September, and may continue in session one week.

In the County of Limestone, on the third Mondays in March and September, and may continue in session one week.

In the County of Navarro, on the fourth Mondays in March and September, and may continue in session one week.

In the County of Robertson, on the second Mondays after the fourth Mondays in March and September, and may continue in session one week.

In the County of Milam, on the third Mondays after the fourth Mondays in March and September, and may continue in session one week.

In the County of Burleson, on the fourth Mondays after the fourth Mondays in March and September, and may continue in session one week.

In the County of Washington, on the sixth Mondays after the fourth Mondays in March and September, and may continue in session three weeks: Provided, however, that the first session of said Court, after the passage of this act, may continue in session four weeks.

Sec. 3. That the seventh section of said act, shall be and is hereby amended, so that it shall hereafter read as follows, to wit:

That the Courts of the seventh Judicial District shall commence.

In the County of Montgomery, on the first Mondays in March and September, and may continue in session two weeks.

In the County of Grimes, on the third Mondays in March and September, and may continue in session one week.

In the County of Walker, on the fourth Mondays in March and September, and may continue in session two weeks.

In the County of Polk, on the second Mondays after the fourth Mondays in March and September, and may continue in session one week.

In the County of Tyler, on the third Mondays after the fourth Mondays in March and September, and may continue in session one week.

In the County of Jefferson, on the fourth Mondays after the fourth Mondays in March and September, and may continue in session one week.

In the County of Liberty, on the fifth Mondays after the fourth Mondays in March and September, and may continue in session two weeks.

In the County of Harris, on the seventh Mondays after the fourth Mondays in March and September, and may continue in session until the business is disposed of.

Sec. 4. That all writs and process of every kind, that have been or may hereafter be issued from any of the District Courts of the first, third, and seventh Judicial Districts, shall be considered as returnable, and shall be returned to the terms as established by this act; and all such writs and process shall have the same force and effect as if they had originally been issued so returnable.

Sec. 5. That this act shall take effect and be in force from and after its passage.

Approved, February 29, 1848.

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## CHAPTER 57.

### An Act to create the County of Hays.

Section 1. Be it resolved by the Legislature of the State of Texas, That the following described limits shall be known as the County of Hays, viz: Beginning on the San Antonio road, at the south corner of Musgrove's survey, being a corner of



Guadalupe county; thence with the San Antonio road North eastwardly to the W. corner of Bastrop county; thence N. 50 deg. W. 46 miles to a corner; thence with a line parallel to the San Antonio road, in a southwestwardly direction to a point being N. 50 deg. W. from the beginning; thence S. 50 deg. E. to the beginning.

Sec. 2. Be it further enacted, That the County seat shall be located at the town of San Marcos.

Sec. 3. Be it further enacted, That this act shall take effect from and after its passage.

Approved, March 1, 1848.

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## CHAPTER 58.

An Act to prohibit the Boards of Land Commissioners in each County in this State from issuing certificates to any claimant whatsoever, unless the applicant or claimant shall previously thereto have received a conditional certificate from some competent Board.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Board of Land Commissioners for each county in this State shall have no power to issue any certificate whatsoever, to any applicant, except to those who may apply for an unconditional certificate, having previously obtained a conditional one (granted during the period or time fixed for issuing conditional certificates, and at least three years prior to the time of application for an unconditional one,) which facts must be shown by the applicant by producing to the Board the original conditional certificate, or when it may have been located a certified copy of the Record of the Board issuing the same, and he shall also, make all the other proof now required by law.

Sec. 2. Be it further enacted, That no Board of Land Commissioners shall have power or authority after the expiration of two years from the passage of this act to issue unconditional certificates to any one.

Sec. 3. Be it further enacted, That all laws and parts of

laws conflicting with the provisions of this act, be, and the same are hereby repealed, and that this act take effect and be in force from and after its passage.

Approved, March 1, 1848.

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## CHAPTER 59.

### An Act to organize the Militia of Santa Fe.

Section 1. Be it enacted by the Legislature of the State of Texas, That the territory lying North and West of Fannin County, within the limits of Texas, commonly known as the District of Santa Fe, shall be attached to the first Division of Militia, composed of the counties of Fannin, Lamar, Red River and Bowie, and the persons therein liable to Military duty, shall be subject to the orders of the Major General of that Division and of the Governor, in conformity with the law, organizing the Militia of the State.

Sec. 2. Be it further enacted, That it shall be the duty of the Governor, to issue a Proclamation, requiring an election for Brigade, Regimental and company officers in that District in conformity with law.

Approved, March 1, 1848.

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## CHAPTER 60.

### An Act to be entitled an act to allow set off, in certain cases.

Section 1. Be it enacted by the Legislature of the State of Texas, That in all cases where judgment has been recovered, or shall hereafter be recovered, by the State upon suits, now pending in any of the courts in this State against any person, upon any liability to the Republic or State, the Comptroller of Public Accounts, be, and he is hereby authorized and required

to allow all persons who are in such manner indebted to the late Republic as aforesaid, to liquidate and pay such judgment or any portion thereof by surrendering claims of equal value against said Republic which they have received, or which is due to said person at a par rate for advances made, or services rendered to the Republic by them.

Sec. 2. Be it further enacted, That the provisions of the first section of this act, shall not be construed to permit any of the liabilities of the Republic, to be received at a higher rate than they were paid out or acknowledged to be due at, by the late Republic, nor shall any party be permitted to pay the liabilities of said Republic issued to third persons or acquired by purchase, nor any other than such as shall be due and owing to the party to such suit or judgment at the time of the commencement of the suit: and further provided, that in all cases the defendant shall pay in par funds all costs and expenses the State or Republic have been put to in prosecuting such claim against any individual under the provisions of this act.

Passed, March 2, 1848.

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#### CHAPTER 61.

An Act authorizing the County Court of Fort Bend to levy an additional tax.

Section 1. Be it enacted by the Legislature of the State of Texas, That the County Court of Fort Bend County, be, and they are hereby authorized to levy for county purposes for the years 1848 and 1849, a tax not exceeding either year, the State tax of that year, to be levied of the same description of property, and collected as the State tax.

Sec. 2. Be it further enacted, That the said Court shall have power to increase the levy for this year, in accordance with the first section of this act, and that this act take effect from and after its passage.

Approved, March 2, 1848.

## CHAPTER 62.

An Act authorising persons who have received donation certificates under provisions of "an act granting lands to those who were in the battle of San Jacinto and other battles," approved December 21, 1837, to alienate said certificates, and the lands acquired under them.

Section 1. Be it enacted by the Legislature of the State of Texas, That any person holding a donation certificate obtained under the provisions of "an act granting lands to those who were in the battle of San Jacinto and other battles," approved December 21, 1837," or holding lands acquired under any such certificate, shall hereafter be permitted to sell and alienate the same, and whenever any such donation certificates or lands acquired under them shall have been sold or alienated under the provisions of this act, all conditions and privileges attached to such certificates or lands shall cease and determine: Provided, that the provisions of this act shall not extend to Jesse Walling, John C. Walling, Robert W. Smith and Jacob Lewis.

Approved, March 2, 1848.

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CHAPTER 63.

An Act to authorize a special tax to be collected, in the County of Guadalupe.

Section 1. Be it enacted by the Legislature of the State of Texas, That the County Court of Guadalupe county be, and they are hereby authorized to levy and have collected upon all taxable property subject to taxation and upon all persons liable to pay license or direct taxes within said county, a special tax not to exceed one half of the county tax for the current year, which tax shall be levied and collected, as other county taxes are levied and collected, and shall be applied exclusively to the erection of a Jail at the county seat.

Sec. 2. Be it further enacted, That the County Court of said county may hold a special session on the last Monday in

March, 1848, for the purpose of acting on the subject, and that this act shall take effect and be in force from and after its passage.

Approved, March 6th, 1848.

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CHAPTER 64.

An Act better to define the boundaries of Walker County.

Section 1. Be it enacted by the Legislature of the State of Texas, That from and after the passage of this act, the boundaries of Walker County shall be known as follows; beginning in the middle of the Trinity river at Robbins' Ferry; thence with the San Antonio road to the North West corner of a survey of 640 acres of land made for L. G. Clipper; thence by a straight line to the North West corner of a survey of two-thirds of a league, made for James H. Collard; thence by a straight line to a point on San Jacinto, three miles below the mouth of East Sandy Creek, to be run straight with the general course of the San Jacinto; thence due East to the West boundary line of Polk County; thence Northerly with the West boundary line of Polk County to its North West corner; thence with the North boundary line of Polk county to the middle of the Trinity river; thence up the middle of said stream to the beginning.

Sec. 2. Be it further enacted, That all laws or parts of laws conflicting with this act, be, and the same are hereby repealed.

Approved, March 6th, 1848.

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CHAPTER 65.

An Act to create the County of Caldwell.

Section 1. Be it enacted by the Legislature of the State of Texas, That the following described limits shall be known as

the County of Caldwell, viz: Beginning at the mouth of Plum Creek on the San Marcos River; thence North 45 deg. East to the South West boundary line of Bastrop county; thence North 45 deg. West, with said boundary line, to its intersection with the San Antonio road and Travis line; thence in a South Westerly direction with said road to the San Marcos river; thence with said river to the place of beginning.

Sec. 2. Be it further enacted, That the County Seat of Caldwell shall be located at a town laid off on a league of land granted to Bird Lockhart, near the springs on said league, and shall be called Lockhart.

Sec. 3. Be it further enacted, That this act take effect from and after its passage.

Approved, March 6, 1848.

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## CHAPTER 66.

### An Act to locate the County Seat of Cass County.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Chief Justice of Cass County shall order an election to be held in each of the beats of the Justices of the Peace by the qualified electors, for one locating Commissioner, to be chosen from and by each of the beats of said county on or before the first Monday in June ensuing, and cause the said election to be conducted according to law.

Sec. 2. Be it further enacted, That it shall be the duty of the Chief Justice, after having received full and due returns of said election, to notify the parties elected of their election, and shall within twenty days thereafter qualify the parties so elected, faithfully to discharge the duties assigned them, under the provisions of this act, a majority of whom may act, and shall proceed without unreasonable delay, to ascertain, and correctly as may be, to define the true geographical centre of said county, and shall have power to employ competent persons for the attainment of that object at the expense of the county, if they deem it necessary and proper.

Sec. 3. Be it further enacted, That when the centre of said County shall have been found, the Commissioners shall select one eligible point, within three miles thereof, having due re-

gard to donations and the other advantages of its location, and nominate the same for the County Seat of the county, to be voted for at an election to be held as hereinafter provided: and provided that said Commissioners shall nominate one place, situated any where in said county, beside the centre and the present seat of justice of said county for the same object, and have power to contract for such place or places selected for the use of the county, conditioned that such place is determined on for the seat of justice by the voters of the county. A majority of all the votes polled in such election shall be necessary to a choice, and successive elections shall be held until this result shall be attained.

Sec. 4. Be it further enacted, That said Commissioners shall make a full return of their proceedings within ninety days after their election to the Chief Justice, the names of the places they may have selected, defining as near as may be, the local advantages or respective situations, and where located in the county, who shall file the same in the Clerk's office for record.

Sec. 5. Be it further enacted, That upon the reception of the report of the Commissioners, by the Chief Justice he shall order an election to be holden by the qualified electors of the county, giving due notice thereof, specifying the object of the election, the names of the places put in nomination and selected by the Commissioners to be voted for, for the seat of justice.

Sec. 6. Be it further enacted, That it shall be the duty of all county officers to remove their offices to such place as the seat of justice may be located, and all courts in and for said county shall be held at that place, excepting that of the magistrates in their respective beats, so soon as the necessary buildings have been constructed for that purpose by order of the County Court, which shall cause a town to be surveyed and laid off in convenient lots in such manner as they may deem best, with power to sell and convey the same in the name and for the use and benefit of the county, first applying the avails arising therefrom to the construction of the necessary public buildings for the use of the county, and the payment of the costs, if any, of such site to the county, and other costs attending the same, of survey, &c., as agreed upon by the Commissioners, who shall also be entitled to a reasonable compensation for their services, in the discretion of the court, in an equitable and just amount.

Sec. 7. Be it further enacted, That all elections held under

this act, shall be conducted by said Chief Justice, in manner and form as prescribed by law; and that all laws conflicting with the provisions of this act, be and the same are hereby repealed.

Approved, March 7, 1848.

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## CHAPTER 67.

An Act to authorize and require the Secretary of State, to cause all of the unbound Enrolled Acts and Joint Resolutions of the late Republic of Texas, and of the first Legislature of the State of Texas, to be substantially bound for preservation in his office.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Secretary of State shall be, and he is hereby authorized and required to arrange according to date, all the unbound enrolled acts passed, and Joint Resolutions adopted, by the Congress of the late Republic of Texas, at the different regular and extra sessions thereof, and all the acts passed and Joint Resolutions adopted by the Legislature of the State of Texas, during its first session, and cause them to be substantially bound in volumes corresponding numerically with the sessions during which said acts and Joint Resolutions were respectively passed and adopted, and to preserve the same among the records in his office.

Sec. 2. Be it further enacted, That the sum of fifty dollars is hereby appropriated, to be drawn by the Secretary of State on the Comptroller of Public Accounts, provided that it shall not exceed seven dollars in amount for any one session.

Approved, March 7. 1848.



CHAPTER 68.

An Act to amend an act creating the County of Polk, approved March 30, 1846.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Board of Commissioners constituted by the third section of said act shall within six months from and after the passage of this act report to the county court of said county, making in said report a statement of all the proceedings of said Board, and the moneys, notes and proceeds of the sales of the town lots lying in the town of Livingston belonging to said county, and it is hereby made the duty of the Chief Justice of said county, to notify in writing said Board to meet in the town of Livingston, at such time or times, as he the said Chief Justice may deem necessary, for the settlement of the business above mentioned within the specified time.

Sec. 2. Be it further enacted, That after the final settlement of said Board in such manner, and within such time as mentioned in the first section of this act, it shall be the duty of the county court, to transact the business of the county in relation to said moneys, notes, and proceeds of the sales of lots in the town of Livingston, by suit, settlement, or otherwise; and also, to control, and direct the sales of the remaining unsold lots, in said town, and belonging to said county, as said court shall think best for the interest of the county.

Sec. 3. Be it further enacted, That it shall be the duty of the Chief Justice of said county to pay over, for the use of the county, to the County Treasurer, the proceeds of the sales of said lots.

Approved, March 7, 1848.

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CHAPTER 69.

An Act providing for the sale of the property belonging to the State of Texas, formerly used by the late Government for Custom purposes.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Comptroller of Public Accounts, be, and he

is hereby authorized and required to cause to be offered at auction to the highest bidder, the public buildings and block of ground, situated in the City of Galveston, formerly used and occupied by the late Republic of Texas for Custom purposes, and also the like premises situated in the town of Matagorda, San Augustine, and at Sabine Pass, also, all other property belonging to the State, which may have been used by the late Government in the collection of Import duties, after giving at least sixty days public notice of such sale, which sale shall be had at the several points where the property is situated.

Sec. 2. Be it further enacted, That the proceeds of the sale of the property authorized by this act, shall be paid in specie, in the following manner, to wit: one fourth part thereof to be paid down, and the other three-fourths, to be paid in three equal instalments, of six, twelve, and eighteen months, the purchaser or purchasers executing his or their notes accordingly, payable to the Comptroller, and his successors in office.

Sec. 3. Be it further enacted, That if any person or persons shall fail to make payment of the several instalments, in conformity with this act, he or they shall forfeit all such sums, as they may have previously paid, and the ground and improvements situated thereon, shall by such default, revert to the State, and the Comptroller shall thereupon proceed to sell said property again as directed by this act.

Sec. 4. Be it further enacted, That the Commissioner of the General Land Office, shall issue patents in the name of the State to the purchaser or purchasers of the property authorized to be sold by this act, on their filing with him the Comptroller's certificate that the full amount for which the same may have been sold, has been duly paid.

Sec. 5. Be it further enacted, That the Comptroller be authorized to pay the expense of advertising and sale, out of the first money received from the sale of the aforesaid property.

Sec. 6. Be it further enacted, That this act shall take effect, from and after its passage.

Approved, March 7, 1848.

CHAPTER 70.

An Act to amend the third section of "an act to provide for the disposition of the funds received from the United States," approved third January, 1848.

Section 1. Be it enacted by the Legislature of the State of Texas, That the above recited section be so amended as to read, that the nett proceeds of the sum of one thousand nine hundred and seventy-five dollars received from the General Government as an indemnity for the disarming of a portion of the command of Col. Snively, by order of Capt. Cook of the U. S. Army, in 1843, after deducting therefrom the expense of collection and transportation to the City of Austin, shall be divided equally among the one hundred and five men, composing the party disarmed, their assigns or legal representatives. Any person applying for the benefit of this act, shall prove by the affidavit in writing of at least one of the party disarmed, that he, or those in whose right he claims, was of the party disarmed.

Sec. 2. Be it further enacted. That this act shall take effect and be in force, from and after its passage.

Approved, March 8, 1848.

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CHAPTER 71.

An Act to regulate the Public Printing.

Section 1. Be it enacted by the Legislature of the State of Texas, That there shall be elected by a joint vote of the two Houses of the Legislature of the State, at each and every session thereof, some suitable person or persons to print the laws and journals of the respective sessions, for which such persons may be elected.

Sec. 2. That there shall be printed by the person or persons, so elected to do the Public Printing, two thousand five hundred copies of the laws of a general nature, and five hundred copies of all acts for private relief, and all acts incorpo-

rating Towns, Cities, Institutions of learning, and private associations of every nature, and five hundred copies of the Journals of each House, and the same number of copies of the laws and journals of each session hereafter to be held, until otherwise provided by law: and it shall be the duty of the Secretary of the Senate, and of the Chief Clerk of the House of Representatives, to cause to be copied the Journals of their respective Houses and prepare them for the press; they shall correct the proof sheet, and superintend the printing and shall be allowed fifteen cents a hundred words for preparing the Journals and superintending the publication as herein provided.

Sec. 3. The laws and journals shall be printed on small pica type, the pages to be forty-four lines long, exclusive of the folio, and twenty-seven ems wide, without side notes.

Sec. 4. The person or persons may be elected, to print the laws and journals of the present or any future session of the Legislature, shall within three days after the election, enter into bond with two or more securities in the sum of five thousand dollars; payable to the Governor and his successors in office, conditioned that the party so elected, shall faithfully execute the duties of his office, in the time and manner prescribed by law, which bond shall be filed in the office of the Secretary of State.

Sec. 5. It shall be the duty of the person or persons elected to do the Public Printing to deliver the number of copies of the laws and journals herein or hereafter required to be printed, to the Secretary of State or to his order, the laws within thirty, and the journals within sixty days, from the day on which the copies are delivered to him or them, in default of which, the Secretary of State shall forthwith place the bond of the party so failing in the hands of the District Attorney, of the District in which the principal or principals or any of the obligors live, whose duty it shall be to bring suit on the same.

Sec. 6. It shall be the duty of the Secretary of State to superintend the printing of the laws of each session of the Legislature; he shall number all the acts and joint resolutions, and keep a register thereof and cause them to be printed in the order in which they are approved, and shall prepare, and have printed a minute and comprehensive index to the same, and shall certify at the end thereof, that the laws and joint resolutions as printed are true copies of the original acts and joint

resolutions filed in this office; and it shall be his duty also, to certify under his hand and seal the day on which the Legislature adjourned, which shall be printed with the laws of the session named in the said certificate.

Sec. 7. The election for Public Printer shall hereafter take place during the second week of each and every session of the Legislature; and every person who may wish to be elected to said office, shall on or before the said second week of the session place in possession of the Speaker of the House of Representatives, sealed proposals stating the price at which he is willing to print the laws and journals of the Legislature then in session, specifying clearly the price to be charged per page for the number of laws and journals herein required to be printed, for the cost of printing one hundred copies of one hundred pages each, and of a larger or smaller number of copies and pages; bids in every instance to include folding and stitching; which proposals shall be opened and read to the two Houses on the day of election of Public Printer.

Sec. 8. That five hundred copies of the journals of each House of the first Legislature, shall be printed, and the printing of the same, may be let out in a separate contract; and it shall be the duty of the Secretary of the Senate, and the Chief Clerk of the House of Representatives to prepare the copies for publication, and they shall be allowed the same compensation therefor, as is provided for in the second section of this act.

Sec. 9. Within six days after the passage of any law or joint resolution, it shall be the duty of the Secretary of State, to cause to be delivered to the Public Printer, correct copies of said laws and joint resolutions, in order that the printing may be executed with the least possible delay.

Sec. 10. There shall be printed with the laws of the present session of the Legislature, a correct copy of the joint resolution of the United States Congress for annexing Texas to the United States, approved by the President of the United States on the 1st day of March, 1845; a copy of the joint resolution of the Congress of Texas, giving the consent of the Government to the annexation of Texas to the United States; approved on the 3d June, 1845: a copy of the Ordinance of the Convention of the people of Texas assenting to, and accepting annexation, adopted in Convention on the 4th July, 1845; a copy of the Constitution of the State of Texas: a copy of the Ordinance of the Convention, in relation to colonization con-

tracts entered into by the Republic of Texas; and a copy of the Joint resolution of the United States Congress accepting and approving the Constitution of the State of Texas.

Sec. 11. "An act to provide for the publication of the Laws of the State," approved 13th May, 1846, and so much of the fourth section of "an act to define the duties of Secretary of State" as requires marginal notes to be affixed to the laws, are hereby repealed; and this act shall take effect from and after its passage.

Approved, March 8, 1848.

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## CHAPTER 72.

### An Act concerning the forfeiture of certain neat Cattle.

Section 1. Be it enacted by the Legislature of the State of Texas, That hereafter no neat cattle shall be brought within the limits of this State, for the purpose of grazing or herding the same, unless such cattle are owned by some person or persons, who are citizens of, or residents in the State, or who are the owners or cultivators of a plantation or farm within the State, and any such neat cattle, that may hereafter be brought into this State in violation of the provisions of this act, shall be forfeited to the county in which the same may be kept for the purpose of grazing or herding.

Sec. 2. Be it further enacted, That any neat cattle, that are now kept within the limits of this State for the purpose of grazing or herding, and that are not owned by any person or persons who are citizens of, or residents in this State, or who are the owners and cultivators of a plantation or farm within the State, shall be forfeited to the County, in which they may be so kept, unless the same shall be removed from the State or sold to some person or persons, who are citizens of, or residents in the State, or who are the owners and cultivators of a plantation or farm within the State, within the period of six months, from the passage and final approval of this act.

Sec. 3. Be it further enacted, That the District Attorney of each Judicial District shall upon being informed by affida-

vit or otherwise, of any violation of this act, proceed by information and other legal proceedings, to have the forfeiture of such neat cattle determined, and for which the District Attorney shall be entitled to one-fourth of said forfeiture.

Sec. 4. Be it further enacted, That the State shall not be liable for any costs that may accrue in the above proceedings, and that this act take effect from and after the passage and final approval of the same.

Approved, March 9, 1848.

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CHAPTER 73.

An Act to locate permanently the County Seat of Justice for the County of De Witt.

Section 1. Be it enacted by the Legislature of the State of Texas, That the second Monday in July, A. D. 1848, be fixed as the day for the holding of an election in the county of De Witt, for the selection of a suitable place for the permanent location of the county seat of justice for said county; and it shall be the duty of the Chief Justice of De Witt county to give public notice of said election, and to issue orders for the holding of said election at the different precincts in said county at least ten days previous to said election.

Sec. 2. Be it further enacted, That it shall be the duty of said Chief Justice to receive and make public by advertisements in each precinct in the said county of De Witt, such propositions as may be offered by the citizens of the county, as inducements in favor of the election of places recommended as suitable locations for the county seat of said county.

Sec. 3. Be it further enacted, That all propositions submitted to the Chief Justice in compliance with the second section of this act, shall be in the shape of penal bonds, and shall be collectable in law at the suit of said Chief Justice, and his successors in office in the said county of De Witt, for the use of the county, in the District Court, and the proceeds applied to the erection of county buildings.

Sec. 4. Be it further enacted, That the said Chief Justice

is hereby authorized and empowered to receive any lands which may be donated to said county, not to exceed six hundred and forty acres in quantity, for the location of said county seat, which land shall be disposed of by the County Court for county purposes.

Sec. 5. Be it further enacted, That each bona fide settler who has resided within the limits of the said county of De Witt, one month next preceding said election, and has arrived at the age of twenty-one years, shall be deemed a qualified voter in the location of the county seat of said county.

Sec. 6. Be it further enacted, That the election of said county seat shall be conducted agreeably to the law regulating elections, and the returns made to the Chief Justice of said county, within ten days after the election, who shall publish the result and declare the place receiving the highest number of votes to be the legal seat of justice for the said County of De Witt: Provided any one place shall have received a majority of all the votes polled at said election; but in the event no one place shall have received a majority as aforesaid, then it shall be the duty of the said Chief Justice to order another election, after giving notice as in the first instance, putting in nomination the two places that have received the greatest number of votes, which election shall be conducted and the returns made as heretofore provided, and the place then receiving the highest number of votes, shall be declared the county seat of justice for the said county of De Witt.

Sec. 7. Be it further enacted, That James N. Smith, David Smith, James M. Baker, Robert Wafford, and Crockett Cardwell, of whom three may constitute a quorum to do business, shall be, and they are hereby appointed Commissioners to lay out a town in such form as to them may seem best, at the place selected as the county seat of said county, to superintend the carrying out such propositions as may have been made in behalf of the selected location, and report to the Chief Justice whether or not the bond containing propositions in favor of said selected place shall have been strictly complied with by the makers of the same.

Sec. 8. Be it further enacted, That as soon as suitable county buildings are received by the Commissioners and reported to the Chief Justice, the Clerks of the District and County Courts and Sheriff shall remove their offices and papers to the place se-



lected as the county seat, and all courts thereafter shall be held at the said county seat.

Sec. 9. Be it further enacted, That all laws and parts of laws conflicting with this act are hereby repealed, and that this act take effect and be in force from and after its passage.

Approved, March 9, 1848.

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## CHAPTER 74.

Joint Resolution for the relief of the Texas Volunteers, called into the service of the country in the year 1846.

Whereas, the volunteers of Texas who repaired to the service of the country, under the call of His Excellency the Governor of the State, in the Spring of 1846, in consequence of their unprepared condition for such an expedition, and the great distances they had to travel to reach the point of rendezvous, incurred great expense; many of them to such an extent that they are yet suffering in consequence, and may unless relieved by Government, never recover therefrom, Therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That our Senators in Congress be instructed and our Representatives requested to procure the passage of a law by the Congress of the United States, reimbursing the troops of Texas, who were called into the service of the country by his Excellency the Governor of the State, under the requisitions of General Taylor and Col. Harney, in the Spring of the year 1846, the expenses incurred by them in travelling to the place or places of rendezvous.

Approved, March 10, 1848.

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## CHAPTER 75.

An Act regulating Attachments.

Section 1. Be it enacted by the Legislature of the State of Texas. That whenever a writ shall issue from any of the Courts

of this State commanding the Sheriff or other officer to summon any person to answer to any civil suit in said Court, and the said officer shall return that the defendant is not to be found in his county, the plaintiff may sue out a writ of attachment, to be levied of the property of such defendant, returnable in the same manner as original writs: and if the said officer shall return any property by him attached, and the defendant shall fail to appear and plead within the time limited by the law regulating pleadings, the plaintiff shall be entitled to judgment as in ordinary suits; and the property so attached, if not replevied, or released by special bail, shall remain in the custody of the Sheriff or other officer until final judgment.

Sec. 2. Be it further enacted, That the bonds given upon which attachments are issued, shall not be construed as security for costs.

Sec. 3. Be it further enacted, That the Judges and Clerks of the District Courts and Justices of the Peace, may issue said judicial attachments returnable to their respective Courts.

Sec. 4. Be it further enacted, That the Judges and Clerks of the District Courts, and Justices of the Peace may issue original attachments, returnable to their respective Courts upon the party applying for the same, his agent or attorney making an affidavit in writing, stating that the defendant is justly indebted to plaintiff, and the amount of the demand; also, that the defendant is not a resident of this State, or that he is about to remove out of this State; or that he secretes himself so that the ordinary process of law cannot be served on him; or that he is about to remove his property beyond this State, and that thereby the plaintiff will probably lose the debt; and he shall also swear that the attachment is not sued out for the purpose of injuring the defendant.

Sec. 5. Be it further enacted, That the plaintiff, his agent or attorney, shall, at the time of making such affidavit, give bond, with two or more good and sufficient sureties, payable to the defendant in at least double the amount sworn to be due, conditioned, that plaintiff will prosecute his suit to effect and pay such damages as shall be adjudged against him for wrongfully suing out such attachment.

Sec. 6. Be it further enacted, That said bond may be put in suit in the same manner as other bonds.

Sec. 7. Be it further enacted, That upon such affidavit and bond being filed, it shall be the duty of said District Judge,

Clerk, or Justice of the Peace, to issue an attachment against the property of the debtor, wherever the same may be found, or so much thereof as shall be sufficient to satisfy the demand and costs of plaintiff; which property shall remain in the hands of the officer attaching the same until final judgment, unless the same shall be replevied or released by special bail; and should the defendant fail to replevy the property so attached within fifteen days after the levying of the attachment, the plaintiff in the attachment shall have the right of replevying the same upon giving bond to the defendant in double the amount of the value of the property attached, with good and sufficient security conditioned for the forthcoming of the property to abide the result of the suit.

Sec. 8. Be it further enacted, That the same proceedings shall be had thereon as in judicial attachments.

Sec. 9. Be it further enacted, That every original attachment issued without affidavit and bond taken as aforesaid, shall be abated on motion of defendant.

Sec. 10. Be it further enacted, That the bond aforesaid shall not be void for want of form; Provided, it contains all essential matters.

Sec. 11. Be it further enacted, That attachments may be levied on defendant's property, and the manner of executing an attachment on personal property shall be, by the officer going to the house in which, or to the person in whose possession the property of the defendant is supposed to be, and then and there declaring in the presence of one or more credible persons of the neighborhood, that he attaches said property.

Sec. 12. Be it further enacted, That the defendant shall have the right to replevy the property so attached, by giving bond, payable to the plaintiff, with two or more sufficient sureties, for the amount of the debt and interest thereon, or at his election for the value of the property so attached, conditioned, that if the defendant be condemned in the action, he or some other person for him, shall return the specific property attached to satisfy the judgment that may be rendered; and, should the defendant fail to replevy the property attached, within the time prescribed in section seventh, then the plaintiff shall have the right to replevy the same, as prescribed in said section.—Any officer taking any such bond, shall endorse thereon the value of the property replevied, and unless the property so attached, shall be replevied, or unless claim be made to it, and

bond given to try the right of the same, as provided by law, or, unless the defendant give special bail as provided for by this act, such property shall remain in the custody of the officer attaching the same, to satisfy the judgment that may be rendered, and the said replevin bond, or bond for the trial of the right of property, or bond given as special bail, shall be lodged with the Clerk of the Court or Justice of the Peace, where the attachment is returnable; and, should the obligors, in any such replevin bond, neglect to deliver the property attached, or so much thereof as may be sufficient, to the proper officer of the Court, for the satisfaction of the final judgment that may be rendered in the attachment, within ten days after the final judgment shall be rendered, such bond shall forthwith be endorsed by said officer as forfeited; and if the judgment is against the defendant, the Clerk or Justice of the Peace, with whom the same is lodged, shall forthwith issue execution, in favor of the plaintiff, against all the obligors in such replevin bond for the full penalty thereof, unless such penalty shall be for a greater amount than the judgment, with interest and costs, against the defendant in attachment, in which case, such execution shall be issued against such obligors for the amount of such judgment, interest and costs; if the judgment shall be against the plaintiff in any case where he may have replevied the property, the Clerk or Justice of the Peace with whom such replevin bond is lodged, shall forthwith issue execution in favor of the defendant against all the obligors in such replevin bond; for the value of such property with legal interest, from the date of the bond. And should the obligors in any such bond, for the trial of the right of property, where the claimant fails to establish his right, neglect or deliver the property attached, or so much thereof, as may be sufficient, to the proper officer of the Court, to satisfy the final judgment that may be rendered against the defendant in attachment, within ten days after the failure of the claimant to establish his right thereto, then, the like proceedings shall be had against the obligors in such bond, for the trial of the right of property, as is herein provided for replevin bonds.

Sec. 13. Be it further enacted, That whenever an officer shall levy an attachment it shall be at his own risk, and such officer may for his own indemnification require the plaintiff in attachment to execute and deliver to him a bond of indemnity

to secure him, if it should afterwards appear that the property levied upon by him does not belong to the defendant.

Sec. 14. Be it further enacted, That any person against whose property an attachment has issued, his agent or attorney, may, at any time before final judgment, upon giving special bail, with good and sufficient sureties, for the amount of the debt and interest, recover possession of the property so attached from the person in whose hands it may be, but the giving such special bail shall be deemed an appearance of the defendant, and the suit shall thereupon proceed as in ordinary cases, but if the plaintiff recover, he shall have judgment against all the obligors in the bail bond.

Sec. 15. Be it further enacted, That special bail put in as above provided for shall release the property so attached.

Sec. 16. Be it further enacted, That a writ of attachment may issue in all cases against the property of a debtor legally subject to attachment, although the debt or demand of the plaintiff be not due, and the same proceedings shall be had thereon, as in other cases of attachments, except that no final judgment shall be rendered against the defendant, until the debt or demand of the plaintiff shall become due, but if the property so attached be of a wasting or perishable nature, then the same shall by order of the Judge, or Justice of the Peace, to whose Court the attachment is returnable, be sold, giving a credit on the sale until the debt or demand of the plaintiff shall become due, on the purchaser's giving bond, with two or more sufficient sureties, payable to the plaintiff, for the payment of the purchase money; which bond shall be lodged with the other papers in the cause, and if the money is not paid at the expiration of the time given, the Clerk or Justice of the Peace, with whom such bond is lodged, shall issue execution against the principal and sureties, or either of them, and the money when collected, shall be paid into the hands of the Clerk or Justice of the Peace, to abide the final decision of the cause.

Sec. 17. Be it further enacted, That when any property attached on the oath of the plaintiff, his agent or attorney, be certified to any District Judge or Justice of the Peace to whose Court the attachment is returnable, to be likely to be wasted or destroyed by keeping, and if the person to whom it belongs, his agent or attorney, shall not within thirty days after the levy of the attachment, replevy or release the same by special bail, then such property shall, by order of such Judge or Justice of

the Peace, be sold at public sale by the officer who levied the writ, in the same manner as sales by execution, and the said officer shall, within five days after such sale, return the order of sale to the Court or Justice of the Peace to which the attachment is returnable, with his proceedings thereon, and also at the time of making such return, shall pay over into the hands of the Clerk or Justice of the peace, all moneys arising from such sale, which moneys shall be subject to the judgment of the suit.

Sec. 18. Be it further enacted, That no judgment shall be rendered in suits by attachment unless the citation or summons has been served in the ordinary mode, or by publication in the manner provided for by law.

Sec. 19. Be it further enacted, That when a Judicial or original attachment has been issued, the plaintiff may apply to the officer who issued the same for a writ of garnishment against any person supposed to be indebted to, or supposed to have any of the effects of the defendant, commanding the Sheriff or other officer to summon such person as garnishee to appear before the District Court, or Justice of the Peace where the attachment is returnable, on the first day of the first term of the Court, or on the return of the attachment; if returnable before a Justice of the Peace, then to answer upon oath what he is indebted to the defendant, or what effects of the defendant he has in his possession, and had at the time of serving of the garnishment, and what credits and effects there are of the defendant in the hands of any other person and what person, to the best of his knowledge or belief, and it shall be lawful at any time after his appearance and examination, when final judgment shall be rendered against the defendant in attachment, also, to enter up judgment against such garnishee for all sums of money acknowledged or proved to be due, and for all effects acknowledged or proved to be in his possession, or so much thereof as may be sufficient to satisfy the judgment of the plaintiff and costs, and if such garnishee shall fail or refuse to deliver to the proper officer of the Court, all sums of money and effects, for which such judgment was entered against him, or so much thereof as may be sufficient to satisfy the judgment of the plaintiff, and costs, when demanded by such officer, he shall make return to the Court or Justice of the Peace, of such failure or refusal, whereupon, it shall be the duty of the Clerk or Justice of the Peace to issue execution against such garnishee, for the full amount of the

judgment and costs, that was rendered against the defendant.

Sec. 20. Be it further enacted, That when any garnishee shall be summoned in the manner aforesaid, and shall fail to appear and discover on oath as is directed by this act, it shall be lawful for the Court or Justice of the Peace, after calling the garnishee, to render judgment against him, and for such sum as judgment may be rendered against the defendant in attachment.

Sec. 21. Be it further enacted, That whenever judgment shall be rendered against any garnishee in the manner provided for by this act, he shall have the right at any time, within ten days after final judgment entered against him as garnishee to deliver the money and effects for which judgment was so entered, to the proper officer of the Court, in discharge of himself.

Sec. 22. Be it further enacted, That if, upon the examination of any garnishee it shall appear that there is any of defendants effects in the hands of any other person who has not been summoned, or that any other person is indebted to the defendant, the Court or Justice of the Peace shall, upon application, issue a judicial attachment or garnishment, to be served as in other cases of attachment and garnishment, and like proceedings shall be had thereon as in other cases of attachment and garnishment.

Sec. 23. Be it further enacted, That the defendant may in all cases, show by competent proof that the garnishee is indebted to him in a greater amount than he is willing to admit on oath.

Sec. 24. Be it further enacted, That the plaintiff wishing to controvert the garnishee's answer, may do so by making oath that he believes the same to be incorrect, whereupon an issue shall be formed and tried as in other suits.

Sec. 25. Be it further enacted, That every garnishee shall be allowed out of the effects and moneys attached, a reasonable compensation for his attendance, and in case no effects or moneys are attached in the hands of the garnishee, said compensation shall be taxed against the party causing such garnishee to be summoned.

Sec. 26. Be it further enacted, That the following form of bond and writ may be used. Know all men that ——— as principal, and ——— as sureties, do hereby acknowledge ourselves bound to pay to ——— the sum of ——— dollars, and ——— cents, conditioned that A. B. plaintiff in attachment against

C. D. defendant, will prosecute his suit with effect, and that he will pay such damages as shall be adjudged against him, for wrongfully suing out said attachment. Witness our hands and scrawls by way of seals, this \_\_\_\_\_ day of \_\_\_\_\_ A. D. 18—  
 The State of Texas, County of \_\_\_\_\_ To the Sheriff of the County of \_\_\_\_\_ Greeting: We command you that you attach so much of the property of C. D., if to be found in your County, repleviable on security, as shall be of value sufficient to make \_\_\_\_\_ dollars and \_\_\_\_\_ cents, and costs, to satisfy the demand of A. B., and such property so attached in your hands to keep and secure, that the same may be liable to further proceedings thereupon to be had at \_\_\_\_\_, so as to compel the said C. D., to appear and plead to the complaint of the said A. B., when and where you shall make known how you have executed this writ.

Sec. 27. Be it further enacted, That all writs of attachment shall be signed and dated by the officer issuing the same, and when issued by a Judge or Clerk of the District Court, shall have the seal of the Court affixed.

Sec. 28. Be it further enacted, That no attachment shall be issued by any Judge or Clerk of the District Court, unless the plaintiff in the suit shall first file his petition in the same manner as in other suits.

Sec. 20. Be it further enacted, That "an act entitled an act regulating attachments" approved January 28th 1839, and an act to amend an act entitled "an act regulating attachments" approved January 28th, 1839, approved, February 4th, 1841, be, and the same are hereby repealed.

Approved, March 11th, 1848.

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## CHAPTER 76.

An Act to amend sections ten, eleven, thirteen, and twenty-two of "an act to organize the Supreme Court of the State of Texas," approved 12th May, A. D. 1846.

Section 1. Be it enacted by the Legislature of the State of Texas, That the tenth section of an act entitled "an act to or-



ganize the Supreme Court of the State of Texas," approved 12th May, A. D. 1846, is hereby amended, so that the same shall hereafter read as follows, to wit:

That the Clerk of said Supreme Court shall carefully preserve the transcript of records certified to said Court and all papers relative thereto, and shall docket all causes brought to the court, putting all of the causes from each of the several judicial districts together upon the docket in the order in which he shall receive them, and the causes may be tried by districts, or in such other order as to the Judges of said Court may seem best calculated to promote the interest and convenience of the parties or their attorneys; and said Clerk shall faithfully record the decisions of said court and the proceedings thereof, and certify the same to the proper courts; and all causes shall be tried by said Supreme Court at the return term, unless satisfactory cause can be shown for a continuance.

Sec. 2. Be it further enacted, That the eleventh section of the above recited act is hereby amended, so that the same shall hereafter read as follows, to wit:

That on the rendition of any final judgment or decree by the Supreme Court, the Clerk of said court shall not be compelled to issue and deliver the mandate of the court, or certify the proceedings to the proper court, until all of the costs accruing on the cause in the Supreme Court shall have been paid. But in case said Clerk shall elect to issue and deliver the mandate of the court or certify the proceedings to the proper court, without such costs having been paid, then he shall make out a correct list of all the costs accruing on said cause in said Supreme Court, and shall issue execution therefor against the party or parties and his, her or their securities adjudged to pay the same directed to the Sheriff of the proper county, from which the original cause was removed, or to any county where the person or persons liable under such execution may have property; and it shall be the duty of every Sheriff, on the receipt of any such execution, to execute the same under the same rules, regulations and liabilities as provided for in cases of executions from the District Courts, which execution shall be returnable on or before the next regular term of the Supreme Court; and any Sheriff who shall fail to make due return of any execution herein provided for, or to pay over any costs so collected, when demanded, shall be subject to pay ten per cent. damages per month on the amount of such execution to the

Clerk of the Supreme Court, to be recovered on motion in the District Court of the County to which the execution was issued—such sheriff having had three days previous notice of such motion.

Sec. 3. Be it further enacted, That the thirteenth section of the above recited act is hereby amended, so that the same shall hereafter read as follows, to wit:

That whenever the Supreme Court, on the trial of a cause, brought from any District Court, shall affirm the judgment or decree of such District Court, or when said Court shall proceed to render such judgment or decree as should have been rendered by the court below, and such judgment shall be for the same or a greater amount, or of the same nature as rendered in the court below, said court shall render judgment against the appellant or appellants, and his, her, or their securities in the appeal bond—a copy of which shall always accompany the transcript of the record, and said Supreme Court shall, in their discretion, also include in their said judgment or decree, such damages, not exceeding ten per cent. on the amount of the original judgment, as the court may deem proper, and the judgment or decree of said court, rendered as contemplated in this section, shall be final, and shall not require any order, decree or action, on the part of the District Court from which the cause was removed; and the Clerks of the various District Courts, on the receipt of the mandate of the Supreme Court in any such cause, shall proceed to issue execution thereon as in other causes.

Sec. 4. Be it further enacted, That the twenty-second section of the above recited act is hereby amended, so that the same shall hereafter read as follows, to wit:

That when the copy of the record of any appeal or writ of error shall not be filed with the Clerk of the Supreme Court on or before the third day of the term next succeeding the taking of the appeal or writ of error, it shall be lawful for the Court in its discretion, or on motion of the defendant in appeal or writ of error, and no good cause shown why the transcript of the record was not filed in due time, to affirm the judgment against the appellant or plaintiff in error, as the case may be, and his, her, or their securities in the appeal bond; which shall be done without reference to the merits of the cause contained in the copy of the record; and in case the appellant or plaintiff in error in any cause shall fail to file a copy of the records

with the Clerk of the Supreme Court, as contemplated in this section, it shall be lawful for the defendant in appeal or writ of error at any time after the thirtieth day from the time of the commencement of the term of the Supreme Court, next succeeding the taking of the appeal or writ of error, to file a copy of such record in said Supreme Court; and it shall be the duty of said court, on motion of the defendant in appeal or writ of error, as the case may be, to affirm the judgment against the appellant or plaintiff in error, as the case may be, and his, her or their securities in the appeal bond.

Sec. 5. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, March 13, 1848.

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## CHAPTER 77.

### An Act to define the boundaries of the County of Austin.

Section 1. Be it enacted by the Legislature of the State of Texas, That the boundary line of Austin County, shall hereafter be as follows; beginning on Buffalo Bayou at the old crossing where the counties of Harris and Austin corner; thence in a direct line to the South East corner of Wm. Cooper's tract of land; thence along the said line until it intersects the line of William Wade's line; thence South along said line, to the South East corner of said tract; thence along the said Wade's line, a due West course to the Brazos river.

Sec. 2. Be it further enacted, That all laws conflicting with the provisions of this act, be, and the same are hereby repealed. and this act take effect and be in force from and after its passage.

Approved, March 13, 1848.

## CHAPTER 78.

An Act to be entitled an act to create the County of Williamson, in honor of Robert M. Williamson.

Section 1. Be it enacted by the Legislature of the State of Texas, That all that portion of Milam County included within the following limits, to wit: Beginning on the dividing waters of Colorado and Brazos rivers, at the South East corner of a survey of nineteen and three-fourths labors, known as the Post Oak Island survey; thence North 71 deg. East, eight miles; thence North 19 deg. West, twenty miles; thence North 65 deg. West to the Salado; thence South 71 deg. West to the dividing ridge between the Brazos and Colorado waters; thence down said dividing ridge, with the meanders of the same to the beginning, be, and the same is hereby created a new county, to be known and called the county of Williamson, in honor of Robert M. Williamson.

Sec. 2. Be it further enacted, That John Berry, Senr., William C. Dalrymple, David C. Cowen, Washington Anderson, J. M. Harrell, and J. O. Rice, are hereby appointed Commissioners, who shall select from among their number a presiding officer, and shall proceed, (paying due regard to donations of land that may be offered,) to select two eligible sites, neither of which shall be more than five miles from the center of said county; and shall submit the same to the legal voters residing within the aforementioned limits, at public election, to be held on the first Monday in May next; and the place receiving the greatest number of votes, shall be named by the Commissioners, and declared the County Seat of said county. If no donations of land be offered, the Commissioners shall purchase on the best terms, for the interest of the county, a tract of land not to exceed three hundred and twenty acres, which they shall lay off into suitable lots, and shall proceed to sell **all or a** part of the same, as they may think best, on a credit of twelve months; reserving a sufficient amount thereof on which to erect the necessary public buildings. The proceeds arising from the sale of lots, shall be applied by the Commissioners to the erection of public buildings for the use of the county, reserving to themselves one dollar per day for each and every day they may be required to serve: the balance, if any, shall be turned

over by the Commissioners to the County Court, who shall afterwards superintend and control the same.

Sec. 3. Be it further enacted, That all civil suits which may have been instituted against any of the citizens of the county created by this act, in Milam county, shall be transferred, together with all papers thereunto belonging, to the proper officers of said new county, and be carried on in the same manner as if continued in the county in which they were originally instituted.

Sec. 4. Be it further enacted, That the person chosen by the Commissioners as their presiding officer, shall order an election to be held on the first Monday in May next, as named in the second section of this act, for the final location of the county site, giving at least ten days notice thereof in writing, to be posted up at four of the most public places in the county; which election shall be conducted according to law.

Sec. 5. Be it further enacted, That the county of Williamson shall belong to the second Judicial District of the State of Texas.

Sec. 6. Be it further enacted, That the Chief Justice of Milam county shall organize said new county in conformity to law; and that this act take effect from and after its passage.

Approved, March 13, 1848.

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## CHAPTER 79.

### An Act better defining the marital rights of parties.

Section 1. Be it enacted by the Legislature of the State of Texas, That every female under the age of twenty-one years, who shall marry in accordance with the laws of this State, shall, from and after the time of such marriage, be deemed to be of full age, and shall have all the rights and privileges to which she would have been entitled, had she been at the time of her marriage of full age.

Sec. 2. Be it further enacted, That all property, both real and personal, of the husband, owned or claimed by him before marriage, and that acquired afterwards by gift, devise, or de-

scent, as also the increase of all lands or slaves thus acquired, shall be his separate property. All property, both real and personal, of the wife, owned or claimed by her before marriage, and that acquired afterwards by gift, devise, or descent, as also the increase of all lands or slaves thus acquired, shall be the separate property of the wife: Provided, that during the marriage, the husband shall have the sole management of all such property.

Sec. 3. Be it further enacted, That all property acquired by either husband or wife, during the marriage, except that which is acquired in the manner specified in the second section of this act, shall be deemed the common property of the husband and wife, and during the coverture may be disposed of by the husband only; it shall be liable for the debts of the husband, and for the debts of the wife, contracted during the marriage, for necessities; and upon the dissolution of the marriage, by death, the remainder of such common property shall go to the survivor, if the deceased have no child or children; but if the deceased have a child or children, the survivor shall be entitled to one-half of said property, and the other half shall pass to the child or children of the deceased.

Sec. 4. Be it further enacted, That the husband and wife may be jointly sued for all debts contracted by the wife for necessities furnished herself or children, and for all expenses which may have been incurred by the wife for the benefit of her separate property.

Sec. 5. Be it further enacted, That upon the trial of any suit as provided for in the fourth section of this act, if it shall appear to the satisfaction of the court and jury, that the debts so contracted, or expenses so incurred, were for the purposes enumerated in said section; and also that the debts so contracted or expenses so incurred, were reasonable and proper, the court shall decree that execution may be levied upon either the common property or the separate property of the wife, at the discretion of the plaintiff.

Sec. 6. Be it further enacted, That the third and fourth sections of "an act to adopt the common law of England, to repeal certain Mexican laws, and to regulate the marital rights of parties," approved 20th January, 1840, be, and the same are hereby repealed; and that nothing contained in this act shall be so construed as to affect any other sections of said act than the said third and fourth sections; but that any other

section of said act that may control or affect the said third or fourth sections, shall have the like control and effect over the provisions of this act.

Sec. 7. Be it further enacted, That this act shall take effect and be in force from and after its passage.

Approved, March 13, 1848.

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## CHAPTER 80.

### An Act to establish a State Penitentiary.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Governor be, and he is hereby authorized and required to appoint, by and with the advice and consent of the Senate, three competent persons as Commissioners, whose duty it shall be to select a proper site whereon to erect a State Penitentiary, to be convenient to navigable water, having due regard to health, materials for building, the importation of machinery, tools, materials to be wrought or manufactured, and for the transportation of articles made or manufactured by the convicts to a market for the same.

Sec. 2. That the Commissioners shall procure by purchase or otherwise, land, not exceeding one hundred acres, to include the site selected: Provided the land shall not cost the State more than five dollars per acre; and they are authorized to pay a fair value with the consent of the Governor, for any water power adjacent to and connected with the site of the Penitentiary.

Sec. 3. That the Commissioners shall report their proceedings to the Governor within sixty days after receiving notice of their appointment, together with the title deed for the land herein required to be procured, after having the same recorded in the Recorder's office in the county wherein the land lies, which deed shall be recorded and filed in the office of Secretary of State: The Commissioners so appointed shall receive as compensation for their services three dollars per day each, for the time they shall be actually employed in selecting a site and making their report, as herein required.

Sec. 4. That the Governor upon the receipt of the reports of the Commissioners, as above prescribed, shall appoint, with the advice and consent of the Senate, a suitable person as superintendent, whose duty it shall be, in connexion with the Directors herein provided for, to procure and submit a plan of the Penitentiary to the Governor; which plan, if approved of by him, shall be deposited in the office of the Secretary of State; and immediately thereafter, the Superintendent shall be required by the Governor to prepare for the erection of the Penitentiary upon the plan approved of, and upon the site selected; and the Directors shall be authorized to employ as many mechanics and laborers as they shall deem necessary, in connexion with the convicts delivered to the custody of the Superintendent, to put up so much of the building or buildings as will secure the prisoners and answer the immediate wants of the State; which building or buildings shall be so constructed and arranged as to form a part of the main buildings of the Penitentiary; and upon the erection of said building or buildings, the Superintendent under the direction of the Directors, shall discharge the hired mechanics and laborers, and the building of the Penitentiary shall be continued by the convicts until the same is completed. The Penitentiary shall be built of substantial materials, and shall be surrounded by a secure wall, to be placed at such a distance from the main building as to enclose a yard of sufficient dimensions to allow room for the erection of workshops and the employment of the convicts at such kind of labor as may be deemed most profitable and useful to the State, and will the least interfere with the general mechanical industry of the country; the Superintendent shall cause to be erected cells for the solitary confinement of the convicts at night, and at such other times as the Superintendent and directors shall direct; the Superintendent shall make an annual estimate at the commencement of each year, of all the materials necessary for carrying on the business in the various departments of the Penitentiary, and submit the same to the Directors; and he shall employ, under the direction of the Directors, a sufficient number of overseers and guards for the safe keeping of the convicts.

Sec. 5. That the Governor shall appoint, with the advice and consent of the Senate, three discreet persons as Directors, any two of whom shall constitute a Board to transact business. The Board of Directors shall make such rules and by-laws as



may be necessary for the government of the Penitentiary and punishment and control of refractory prisoners confined therein: Provided that no cruel or unusual punishment shall be inflicted. They shall cause the rules and by-laws to be printed and put up in some conspicuous place in the prison: they shall prescribe the uniform to be worn by the convicts, which shall be comfortable but of coarse material; and the provisions that shall be furnished them, which shall be in sufficient quantity, and of common but wholesome quality: They shall employ a suitable person to furnish the proper food and clothing for the convicts: they shall visit the Penitentiary at least once in each month: see that the convicts are humanely treated and sufficiently clothed and fed: they shall inquire into any cruel treatment or improper conduct alledged against the Superintendent, overseers, or guards; and if they discover any grievance, or cause of grievance, they shall see that the same is remedied; for which purpose they shall have power to discharge any overseer or guard from their employment about the Penitentiary; and in case of improper conduct in the Superintendent, they shall report the same to the Governor, for which purpose they shall have power to call before them witnesses, administer oaths, and take such other necessary steps as to arrive at the truth of the matter: they shall cause a distinction to be made in the treatment of the convicts, by extending to such as prove orderly, obedient and industrious, certain comforts and privileges according to their merit: Provided such privileges shall not conflict with the provisions of this act or endanger the custody of the convicts: they shall report annually to the Governor, or oftener if he require it, a comprehensive view of the government, discipline and transactions of the Penitentiary during the preceding year, which report shall particularly set forth the number of convicts in the Penitentiary, the age, sex, and place of nativity of each, their term of imprisonment, the offences for which they were committed, from what county they were sent, the number of convicts that have died, escaped, or have been discharged by expiration of their term, or pardoned, during the preceding year, the various branches of business in which they have been employed, and the number employed in each branch, with an account of articles manufactured and for sale, the articles that have been sold, and the amount of sales, the cost of materials, and the materials then on hand; which report, together with the report of the Superin-

tendent, shall, by the Governor, be laid before the Legislature, at each session thereof, within ten days after its organization. If the work to be done in the Penitentiary, or any part of the same, is of such a nature as to require previous instruction in its performance, proper persons for that purpose may be employed, to whom a suitable allowance shall be made by order of the Board of Directors. The Board of Directors shall also direct the manner in which materials to be used by the convicts shall be purchased; but it shall in no case be lawful for any director, superintendent, or overseer of the Penitentiary to purchase supplies of any kind themselves, or be interested therein; and said Board of Directors shall employ a physician for the Penitentiary, whenever it may appear to them to be necessary.

Sec. 6. That the Superintendent shall cause the clothes of each convict to be carefully preserved during the time they are confined therein, and returned to them on their discharge therefrom; and the Superintendent shall give to each convict, on his or her discharge from the Penitentiary, the sum of ten dollars: Provided the Superintendent shall be satisfied that said convict is without money and is otherwise unprovided for.

Sec. 7. That every convict, when received into the Penitentiary, shall be carefully searched and deprived of every article by which an escape might be effected. The description of every convict when received into the Penitentiary, shall be entered in a book to be kept for that purpose, in which shall be entered the name, sex, age, height, color of eyes and hair, place of nativity, previous occupation, time of conviction, nature of crime, and period of confinement: Said books shall be kept by the Superintendent, who shall also discharge the duty of Clerk of the Penitentiary. And in case of the escape of any convict, the Superintendent shall be authorized to offer a reward, not exceeding the sum of one hundred dollars for the apprehension and return of such convict, and whenever any person may be entitled to such reward, the same shall be certified by the Superintendent and paid out of the appropriation for the Penitentiary, on the warrant of the Comptroller.

Sec. 8. That it shall be the duty of the Superintendent to take charge of all convicts who may be sentenced to the Penitentiary, and to keep them employed at all proper hours for labor; and until the Penitentiary shall be erected, and ready for the reception of convicts, it shall be the duty of the Superin-

tendent to employ all of the male convicts during working hours in chained gangs in getting out and preparing materials for the erection of the building.

Sec. 9. That all convicts sent to the Penitentiary, shall be conveyed thither by the Sheriff of the county where the conviction was had, or his legally authorized deputy, at the expense of the State; for which purpose, the Sheriff or Deputy shall be authorized (should he deem it necessary) to employ on his own account a guard of not exceeding two persons, except in extreme cases, and such extremity or necessity to be judged of and passed upon by the Superintendent, on the delivery of the convict or convicts into the Penitentiary. The Sheriff shall be entitled to two dollars and fifty cents for every thirty miles travel in going to the Penitentiary with a convict and returning from the same, the distance to be computed over the most direct and usually travelled route. In case one or more persons are employed as a guard, the Sheriff shall be entitled to the sum of two dollars for every thirty miles travel of each person of said guard, in going to and returning from the Penitentiary, the distance to be computed as aforesaid; and in addition, the Sheriff shall be entitled to receive for the conveyance and sustenance of each convict he may take to the Penitentiary, the sum of five cents per mile for each mile that such convict may travel in going to the Penitentiary, the distance to be computed as in the other cases herein provided for: and said several sums provided for in this section, shall be certified by the Superintendent, in the name of the Sheriff, or his deputy, as the case may be, and shall be paid out of the appropriation for the Penitentiary, on the warrant of the Comptroller.

Sec. 10. That it shall be the duty of the Clerk of the Court in which any person shall be convicted and sentenced to the Penitentiary, to furnish the Sheriff with a certified abstract of the record, setting forth the name, age, and previous occupation of the convict, and the term for which such convict was sentenced; which certificate shall be delivered to the Superintendent, who shall receipt to the Sheriff for the person of the convict; and the Sheriff shall deliver said receipt to the Clerk of the Court, who shall file the same with the verdict and sentence of the Court in the cause.

Sec. 11. That the Governor shall have and exercise the

removing and appointing power herein, when the Legislature is not in session, as in other cases.

Sec. 12. That the convicts of the different sexes shall at all times be kept separate and apart.

Sec. 13. That the Superintendent of the Penitentiary shall receive an annual salary of one thousand dollars, and rooms and offices shall be reserved for him and the other officers in appropriate places in the Penitentiary. Each of the Directors shall receive three dollars per day for each day they are actually employed: Provided the aggregate amount paid any one of said Directors for their said services, in any one year, shall not exceed the sum of one hundred dollars. The accounts of the Directors and inferior officers and employees of the Penitentiary, for their salaries or otherwise, shall be certified by the Superintendent, and paid quarterly upon the warrant of the Comptroller. And the accounts of the Superintendent for his salary, and expenditures on the account of the Penitentiary, shall be certified by the Directors and paid quarterly upon the warrant of the Comptroller, all of which shall be paid out of the appropriation for the Penitentiary.

Sec. 14. That an act entitled "an act to establish a State Penitentiary," approved May 11th, 1846, be, and the same is hereby repealed, and that this act take effect and be in force from and after its passage.

Approved, March 13, 1848.

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## CHAPTER 81.

Joint Resolution proposing an amendment to the Constitution of the State of Texas.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Constitution of the State of Texas be so altered and amended, that the Judges of the Supreme Court, Judges of the District Courts, Attorney General, District Attorneys, Comptroller of Public Accounts, Treasurer of the State, and the Commissioner of the General Land Office, shall at the expiration of their respective terms of office, or in case a vacancy

may occur in either of them, by death, resignation, or otherwise, after this amendment takes effect and thereafter, be elected by the qualified electors of the State in the manner prescribed by law.

Sec. 2. Be it further resolved, That the election for District Judges and District Attorneys shall be confined to their respective Districts.

Sec. 3. Be it further resolved, That the Governor cause this resolution to be duly published in the public prints of the State, at least three months before the next general election for Representatives of the State Legislature.

Approved, March 14, 1848.

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## CHAPTER 82.

An Act to define the time of holding the District Courts in the tenth Judicial District.

Section 1. Be it enacted by the Legislature of the State of Texas, That the District Court shall be held in each county in the tenth Judicial District, as follows, to wit:

In the County of Victoria, on the first Mondays in March and September, and may continue in session three weeks.

In the County of Calhoun, on the third Mondays after the first Mondays in March and September and may continue in session one week.

In the County of Jackson, on the fourth Mondays after the first Mondays in March and September, and may continue in session one week.

In the County of Lavaca, on the fifth Mondays after the first Mondays in March and September, and may continue in session one week.

In the County of Gonzales, on the sixth Mondays after the first Mondays in March and September, and may continue in session two weeks.

In the County of De Witt, on the eighth Mondays after the first Mondays in March and September, and may continue in session two weeks.

In the County of Goliad, on the tenth Mondays after the first Mondays in March and September, and may continue in session two weeks.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after the first day of August next; and that from and after that time, all process in said counties shall be made returnable in conformity with the provisions of this act.

Approved, March 14, 1848.

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### CHAPTER 83.

#### An Act for the further organization of Henderson County.

Section 1. Be it enacted by the Legislature of the State of Texas, That the following shall be the permanent boundaries of the county of Henderson, to wit: Beginning at a point on the Trinity river, eight miles on a due course, below where a line running due South from the North East corner of Dallas county, may strike said river; and running thence North forty-five degrees East to a point due East, to the South East corner of Dallas county, as established by Albert G. Walker; thence due East to a point forty-three miles East of said South East corner of Dallas county; thence due South to the North boundary line of Anderson county; thence Westwardly with the Northern boundary line of Anderson county to the Trinity river; thence up the Trinity river to the place of beginning.

Sec. 2. Be it further enacted, That David Baugh, Dr. H. M. Allen, Elbridge Mallard, Dr. Berias Graham, and John Baker, be, and they are hereby appointed Commissioners for said county, whose duty it shall be to ascertain the centre of said county, which they are hereby authorized to employ a competent surveyor to do, at the expense of the county, and nominate one place within five miles of the centre so ascertained, and the present county seat of said county, as places to be voted for as the permanent county seat of said county; and said Commissioners shall then order an election for said county seat, on the first day of April next, giving thirty days notice of said

election, by posting up written notices at not less than five public places in said county, which election shall be governed by the laws regulating elections generally; except that every bona fide citizen who shall have resided in said county three months next preceeding said election shall be entitled to vote therein. The votes polled in said election shall be returned to the Chief Justice of said county within ten days inclusive after the day of election, and said votes shall be opened and counted by said Chief Justice on said tenth, or return day, when the place receiving the highest number of votes shall be duly declared by said Chief Justice the county seat of Henderson County.

Sec. 3. Be it further enacted, That as soon as the county officers for said county shall be elected, at the regular election, in July next, and qualified, the archives of said county shall, if the county seat be removed from its present location to the new county site, and such county officers as are required to reside at the county seat, shall thereafter keep their offices at the new county seat.

Sec. 4. Be it further enacted, That said Commissioners shall have regard, in the selection of the place at the centre of the county, to eligibility of site, timber, and water; and said Commissioners are hereby authorized to receive donations for the different places put in nomination, either in land or money; which donation shall be secured by bond from the donor or donors, conditioned that the county seat be located at the place for which the donations are made.

Sec. 5. Be it further enacted, That said Commissioners are hereby authorized to apply any donations made under this act, to the erection of suitable county buildings.

Sec. 6. Be it further enacted, That after the organization of the County in July next, the Commissioners herein appointed shall surrender to the County Court of said county, all their books and papers, as Commissioners for said county, together with all the monies and liabilities in their possession; and thereafter the County Court of said county shall do and perform all the duties imposed by this act on said Commissioners.

Sec. 7. Be it further enacted, That on the first meeting of said Commissioners, they shall select from their number a presiding Commissioner, who shall have power to convene said Commissioners whenever it may be necessary; and said Commissioners shall, at their first meeting, take an oath before

some competent authority, faithfully to discharge their duties as Commissioners for Henderson county; and said Commissioners shall be entitled to and receive one dollar per day for each day they may be employed in the discharge of their duties as such.

Sec. 8. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, March 14, 1848.

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## CHAPTER 84.

### An Act regulating Sequestrations.

Section 1. Be it enacted by the Legislature of the State of Texas. That Judges and Clerks of the District Court, and Justices of the Peace, shall at the commencement, or during the progress of any civil suit before final judgment, have power to issue writs of sequestration, returnable to their respective courts, in the following cases, verified by the affidavit of the party applying for the writ: First, when a married woman sues for a divorce, and makes oath that she fears her husband will waste her separate property, or their common property, or the fruits or revenue produced by either, or remove the same out of the limits of this State, during the pendency of the suit: Second, when a person sues for the title or possession of a slave, or other moveable property, or chattels of any description, and makes oath that he fears the defendant or person in possession thereof will injure or ill-treat such slave, or waste such moveable property or chattels, or remove the same out of the limits of this State, during the pendency of the suit: Third, when a person sues for the foreclosure of a mortgage, or the enforcement of a lien upon a slave or moveable property of any description, and makes oath that he fears that the defendant, or person in possession thereof, will injure or ill-treat such slave, or waste such moveable property, or remove such slave or moveable property out of the limits of the county: Fourth, when any person sues for the title or possession of real property, and makes oath that he fears the defendant or



person in possession thereof, may make use of his possession to injure such property, or waste the fruits and revenue produced by the same, or convert them to his own use: Fifth, when any person sues for the title or possession of any property from which he has been ejected by force or violence, and shall make oath to such facts.

Sec. 2. Be it further enacted, That no writ of sequestration shall issue unless the party applying for the same shall make such affidavit of facts, and shall also file with the Clerk of the Court, or Justice of the Peace, a bond payable to the defendant for a sum of money equal to double the value of the property to be sequestered, with good and sufficient sureties, to be approved by such Clerk or Justice of the Peace, conditioned that the plaintiff or person suing out such writ, will pay to the defendant all such damages as may be awarded against him, in case it shall be decided that such sequestration was wrongfully issued.

Sec. 3. Be it further enacted, That such bond shall not be construed as security for costs: That the writ of sequestration shall command the Sheriff or other officer to take into his possession the property described by the affidavit if to be found in the county, and keep the same subject to the future order of the Court or Justice of the Peace, unless the defendant or person from whose possession such property is taken shall replevy the same according to law.

Sec. 4. Be it further enacted, That when any person has a mortgage or lien upon a slave or moveable property, of any description, and makes affidavit, that he fears the defendant or person in possession thereof will injure or ill-treat such slave, or waste such moveable property, or remove such slave or moveable property out of the limits of the county, a writ of sequestration may issue, although the right of action on such mortgage or lien has not accrued, and the same proceedings shall be had thereon as in other cases of sequestration, except that no final judgment shall be rendered against the defendant, until the right of action on such mortgage or lien shall have accrued: but if the property so sequestered be of a wasting or perishable nature, the same shall, by order of the Judge or Justice of the Peace to whose court the sequestration is returnable, be sold, giving a credit on the sale until such right of action shall accrue, on the purchaser's giving bond, with two or more sufficient sureties, payable to the plaintiff for the pay-

ment of the purchase money, which bond shall be lodged with the other papers in the cause; and if the money is not paid at the expiration of the time given, the Clerk or Justice of the Peace, with whom such bond is lodged, shall issue execution against the principal and sureties, or either of them, and the money when collected, shall be paid into the hands of the Clerk or Justice of the Peace to abide the final decision of the cause.

Sec. 5. Be it further enacted, That when any property sequestered, on the oath of the plaintiff, his agent or attorney, be certified to any Judge or Justice of the Peace, to whose court the sequestration is returnable, to be likely to be wasted or destroyed by keeping; and the defendant in such sequestration, his agent or attorney, shall not within thirty days after the levy, replevy the property sequestered, then such property shall by order of such Judge or Justice of the Peace, be sold at public sale, by the officer who levied the writ, in the same manner as sales by execution; and the said officers shall within five days after such sale, return the order of sale to the Court or Justice of the Peace, to which the sequestration is returnable, with his proceedings thereon; and also, at the time of making such return, shall pay over into the hands of the Clerk or Justice of the Peace all monies arising from such sale.

Sec. 6. Be it further enacted, That the defendant whose property has been taken by writ of sequestration, shall have the right to retain the same, by delivering to the Sheriff or other officer executing said writ, his bond payable to the plaintiff, with good and sufficient sureties, to be approved of by the Sheriff or officer taking the same, for an amount of money equal to double the value of the property sequestered; which bond, if the property sequestered be slaves or moveable property, shall be conditioned that he will not send away the same out of the county or limits of the State, according to plaintiff's affidavit; that he will not make an improper use of them, and that he will have them forthcoming to abide the decision of the Court, or that he will pay the value thereof, in case the suit shall be decided against him. If the property sequestered be real property, the condition of said bond shall be that he will not injure said property, and that he will restore the fruits and revenue produced by the same or pay their value, in case he shall be condemned so to do: such bond shall be returned to the Court with the suit, and in case the suit is decided against

the defendant, final judgment shall be entered against all the obligors in such bond jointly and severally.

Sec. 7. Be it further enacted, That the Sheriff or other officer, while he retains custody of the sequestered property, shall take care of and manage the same in a prudent manner; he may confide the same to the custody of other persons, but he shall be responsible for their acts, and he shall be responsible to the party injured for any neglect or mismanagement by himself or by those whom he has confided the custody or management of such property; and he shall be entitled to receive a just compensation and all reasonable charges therefor, to be determined by the Court or Justice of the Peace, and paid out of the proceeds of the property sequestered, if judgment be given in favor of the party suing out the said writ; but if judgment be against such party, then such compensation and reasonable charges shall be paid by him: provided, that if the defendant does not replevy the property sequestered within thirty days, the Sheriff or other officer shall deliver the property to the plaintiff, upon his giving bond payable to the Sheriff or other officer in a sum at least double the value of the property sequestered, with two or more good and sufficient sureties, to be approved by the officer, conditioned that the property shall be forthcoming to abide the decision of the Court; which bond, if forfeited, or if the suit be decided against the plaintiff, shall have the force and effect of a judgment; and if the property sequestered be slaves, and the defendant does not within the time prescribed, (thirty days,) replevy the same, and the plaintiff within ten days thereafter, it shall be the duty of the Sheriff or other officer to hire out said slaves to the best advantage.

Sec. 8. Be it further enacted, that no writ of sequestration shall be issued by any Judge or Clerk of the District Court, unless a petition shall have been first filed in the office of such Clerk.

Sec. 9. Be it further enacted, That no judgment shall be rendered in any suit in which a sequestration has issued, unless the citation has been served in the ordinary mode, or by publication as provided for by law.

Sec. 10. Be it further enacted, That sections one hundred and forty-four, one hundred and forty-five, one hundred and forty-six, one hundred and forty-seven, and one hundred and forty-eight, of "an act to regulate proceedings in the District Courts," approved 13th May, A. D. 1846, be, and the same are

hereby repealed; and that this act take effect from and after its passage.

Approved, March 15, 1848.

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#### CHAPTER 85.

An Act to amend an act supplementary to an act to create and organize the county of Panola.

Section 1. Be it enacted by the Legislature of the State of Texas, That the third section of an act to create and organize the county of Panola be so amended as to read as follows, to wit: That it shall be the duty of the County Court of the county of Panola, to cause the territory of the same to be laid off into five Districts, as nearly equal in size as they can be made, by imaginary lines, the centre of the county to be the centre of one district; after which, the Chief Justice of said county shall cause an election to be held in each district, within fifteen days after said districts are made, for the election of one Commissioner for each district: said election, the notice of the same, and manner of making returns, shall be governed by the laws regulating elections for county officers; and on comparing the votes, the one receiving the highest number of votes in their respective districts, shall be declared the Commissioner for the county of Panola; whose duty it shall be to select two eligible sites, one of which shall be within five miles of the centre of said county, and the other on either side of the Sabine river, without regard to the centre, for the county site of said county; which places shall be submitted to the legal voters of said county, at public election, at such places as is prescribed by law; and it shall be the duty of the Chief Justice of said county, as soon as the said Commissioners shall have selected the sites and report the same, to issue a writ of election to be held, and the returns of said election to be made within ten days thereafter; and the place receiving a majority of the legal votes cast at said election shall be the county site, and shall be known and called by the name of Carthage; unless at said election some town or village now established in said coun-

ty be selected as the county site; and said Commissioners shall have power to purchase land in amount not to exceed one hundred and sixty acres for the use of said county, or to receive any amount offered as a donation.

Sec. 2. Be it further enacted, That the Commissioners or a majority of them, shall select and nominate the places to be submitted to the voters of Panola county for the county seat by the second Monday of July next; and on the second Monday of August thereafter, an election for county seat shall be held throughout said county; said election to be ordered as required by this act; and to be governed by the general law regulating elections.

Sec. 3. Be it further enacted, That the Commissioners, or a majority of them, shall make known the result of said election, by publishing the number of votes given for each place, and they shall immediately thereafter proceed to lay off the place selected for the county seat into convenient lots, reserving one in the centre thereof of such size as they may deem proper, upon which to erect a Court House, and one in some other part thereof, upon which to erect a county jail; and shall at such time or time as may be agreed upon amongst themselves, offer said lots for sale upon a credit of twelve months, taking notes with good security, and mortgages upon the property sold, payable to the Judge of the County Court of their county, and their successors in office for the use of the county, to be applied to the erection of county buildings first, and then to such other purposes as the County Court of said County may direct: Provided the said Commissioners give at least thirty days notice of each and every sale.

Sec. 4. Be it further enacted, That the Commissioners, for the services required of them by this act, shall receive such compensation as may be allowed by the county Court of said county for each and every day they may be in service; and that all laws be hereby repealed that conflict with this act.

Sec. 5. Be it further enacted, That this act take effect from and after its passage.

Approved, March 15, 1848.

## CHAPTER 86.

An Act to regulate the time of holding Courts in the fourth Judicial Districts.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Courts in the fourth Judicial District shall be held as follows, to wit: In the County of Bexar on the first Mondays in August and February, and may continue in session four weeks.

In the county of Medina, on the fourth Monday after the first Mondays in August and February, and may continue in session one week.

In the county of Refugio, on the fifth Monday after the first Mondays in August and February, and may continue in session one week.

In the County of Nueces, on the sixth Monday after the first Mondays in August and February, and may continue in session one week.

In the county of San Patricio, on the seventh Monday after the first Mondays in August and February, and may continue in session two weeks.

In the county of Cameron, on the ninth Monday after the first Mondays in August and February, and may continue in session two weeks.

In the county of Starr on the eleventh Monday after the first Mondays in August and February, and may continue in session two weeks.

In the county of Webb, on the thirteenth Monday after the first Mondays in August and February, and may continue in session until the business is disposed of.

Sec. 2. Be it further enacted, That this act shall go into effect from and after the first day of August, A. D. 1848.

Approved. March 15th, 1848.

CHAPTER 87.

An Act to create and organize the County of Santa Fe.

Section 1. Be it enacted by the Legislature of the State of Texas, That all that territory included in the following boundaries, to wit: Beginning at the junction of the Rio Puerco with the Rio Grande, and running up the principal stream of the said Rio Grande to its source, and thence due North, to the forty second degree of North latitude; thence along the boundary line as defined in the treaty between the United States and Spain, to the point where the hundredth degree of longitude west of Greenwich intersects Red River; thence up the principal stream of said Red River to its source; thence in a direct line to the source of the principal stream of the Rio Puerco, and down the said Rio Puerco to the place of beginning, is hereby created into a new county to be called the county of Santa Fe.

Sec. 2. Be it further enacted, That the town of Santa Fe, shall be the County Seat of the County of Santa Fe.

Sec. 3. Be it further enacted, That the citizens of the county of Santa Fe, are hereby entitled to the same officers and Courts, to which the other Counties of this State are entitled; Provided, that nothing in this act shall be so construed, as to give said county of Santa Fe, a separate Land District, or to authorize the county Court of said county to issue land certificates.

Sec. 4. Be it further enacted, That the District Judge of the eleventh Judicial District of the State of Texas, shall designate the places at which elections shall be held for county officers, on the first Monday in August next, or at such other time as he may think proper, and shall give thirty days notice of the same, and appoint the presiding officers to hold the elections and make returns to him, and he shall examine the returns and declare those receiving the highest number of votes, for the respective offices duly elected, and make return thereof to the Secretary of State.

Sec. 5. Be it further enacted, That this act take effect from its passage.

Approved, March 15, 1848.

## CHAPTER 88.

An Act to establish the eleventh Judicial District of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That the county of Santa Fe, shall constitute the eleventh Judicial District of the State of Texas.

Sec. 2. Be it further enacted, That the District Court shall hold its sessions, at the town of Santa Fe, in the county of Santa Fe, on the first Mondays in May and November of each year, and may sit until the business is disposed of.

Sec. 3. Be it further enacted, That this act take effect from its passage.

Approved, March 15, 1848.

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CHAPTER 89.

An Act to continue in force an act for the relief of those who have purchased lots in the City of Austin and tract adjoining.

Section 1. Be it enacted by the Legislature of the State of Texas, That an act for the relief of those persons who have purchased lots in the City of Austin, and out lots upon the tract adjoining, passed the 4th day of May, 1846, be and the same is hereby continued in force, until the first day of July next, and all lots that are not paid for in the manner provided in the above recited act, on or before the said first day of July next, shall be forfeited to the State; and it shall be the duty of the Comptroller of Public Accounts, forthwith to advertise by publication, in some newspaper, printed in the City of Austin, all such forfeited and relinquished lots, and after sixty days notice of the time and place of sale, shall, at the Treasury Department in the City of Austin, proceed to sell to the highest bidder for cash, all such forfeited and relinquished lots and pay the proceeds thereof into the State Treasury.

Approved, March 15, 1848.



CHAPTER 90.

An Act to amend an act entitled "an act for the relief of Master Builders and Mechanics of Texas," approved January 23rd, 1839.

Section 1. Be it enacted by the Legislature of the State of Texas, That the second section of the above recited act be so amended as to read as follows, to wit: That every contract made and entered into as aforesaid shall be recorded in the County Clerk's office of the county where such building shall have been erected, within thirty days after the contract is made, or otherwise said lien shall be inoperative as to all persons without notice of its existence.

Approved, March 15, 1848.

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CHAPTER 91.

An Act to amend the forty third section of an act punishing crimes and misdemeanors, approved December 21st, 1836.

Section 1. Be it enacted by the Legislature of the State of Texas, That the forty third section of the above entitled act be, and the same is hereby amended, so as to read as follows, to wit: Every person indicted for a capital offence, shall have a copy of the indictment delivered to him at least one day before his trial shall have commenced; and the Court shall at any time during the term, upon application of the District Attorney, order a venire facias returnable forthwith; by virtue of which the Sheriff shall summon thirty six persons to serve as Jurors in any such capital case; a list of whom shall also be furnished to the defendant, at least one day before the trial is commenced, and every person who shall be accused or indicted, shall be allowed to make his full defence in person or by counsel; and the Court, before whom such person is to be tried, shall, at his request, assign counsel, not exceeding two, who shall have free access to the accused at all proper times; and every person so indicted shall have like process to compel the atten-

dance of witnesses, as is granted to compel the attendance of witnesses on the part of the State.

Sec. 2. Be it further enacted, This act shall take effect from and after its passage.

Approved, March 15, 1848.

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## CHAPTER 92.

An Act authorizing and requiring the County Courts to regulate roads, appoint overseers, &c.

Section 1. Be it enacted by the Legislature of the State of Texas, That the County Courts of the several counties of this State shall have full power to order the laying out of public roads when necessary and to discontinue or alter any road whenever it shall be deemed expedient, and it shall be their further duty to classify all roads running through their several counties, those of the first class shall be clear of all trees at least thirty feet wide, stumps cut down to six inches of the surface, all causeways laid out at least fifteen feet wide; and those of the second class shall not be less than twenty feet wide, clear of all trees, all stumps cut to six inches of the surface, and all causeways laid out at least twelve feet wide.

Sec. 2. That whenever it shall be deemed necessary to lay out any new road, the County Court shall appoint five reviewers, householders of the county, a majority of whom may, and can act, who shall proceed to re-view and mark out said road to the greatest advantage of the inhabitants and as little as may be to the prejudice of enclosures, and report to the Court at its next session, and on the report of the reviewers, the Court shall order the overseer to have said road cut out and made passable as provided for in the first section of this act.

Sec. 3. That the County Courts of the counties shall lay off their counties into road precincts, and shall at their first meeting in each and every year appoint one overseer for each precinct, and shall at the same time apportion and designate all the hands liable to work on public roads, and under the different overseers in their county, but if from any cause the Court

should fail or neglect to perform the duties required in this section at its first meeting in the year, it shall be competent and legal for it to make such apportionment and designation at a called meeting, or its next regular session.

Sec. 4. That it shall be the duty of the Clerk of the county Court to make out within ten days after the adjournment of the Court, the names of the overseers, and all the hands liable to work under them, and accompanying said list, a copy of the boundaries of the precinct as laid off by the Court, and deliver it to the Sheriff of his county, and the Sheriff shall within twenty days after the reception of the same deliver to, or leave at the common residence of the overseer a copy of the same, and on the Clerk or Sheriff failing to perform the duties herein required, each shall forfeit and pay for every such failure, the sum of twenty five dollars, which fines shall be recovered by judgment, on motion of the District Attorney of the District Court of the county in which the defaulter may reside, the said defaulter having three days notice of the said motion.

Sec. 5. That if any overseer shall fail or refuse to serve after receiving due notice of his appointment, he shall for such refusal be fined twenty dollars, to be recovered as provided for in the fourth section of this act; Provided that all reasonable excuses shall be heard and allowed; and no overseer of roads shall be required to perform militia duty or serve on juries during the time he serves as such.

Sec. 6. That the overseers of the road shall have power to call out all persons liable to work on public roads at any time when it may appear necessary to work or repair his road or any part thereof in his precinct: Provided that no one person shall be compelled to work on more roads than one, nor more than ten days in one year: and further, provided that each overseer shall with his hands work the road in his precinct clear through at least twice in every year during the months of May and September.

Sec. 7. That it shall be the duty of the overseer of any road to give two days previous notice by summons in person or in writing, left at their respective places of abode, to all free male persons, as well as to the owners, overseers, or employers of slaves liable to work on roads in his precinct, to meet at such time and place as he shall designate, and bring with them such tools to work with on the roads as he shall direct; and if any free person so summoned shall fail to attend or send

a substitute to work in his place, or when attending shall fail or refuse to do and perform his duty therein, shall forfeit and pay for each and every day, and for each and every such failure or refusal, the sum of one dollar and twenty five cents, together with all costs of suit, by judgment in the same manner as in cases of debt, before any Justice of the Peace of his county, and if a slave, the sum of one dollar for each and every day he shall fail to attend, to be recovered in manner as aforesaid from his owner, overseer, or employer; provided all reasonable excuses shall be heard and allowed.

Sec. 8. That if any overseer of a road shall fail or neglect to prosecute any free person, or if a slave, his owner, overseer or employer, who shall fail to attend, or neglect or refuse to perform his duty when lawfully summoned to work on roads, said overseer shall forfeit and pay for every such neglect, failure or refusal, the sum of five dollars, to be recovered as provided for in the seventh section of this act, and the funds accruing under this act to be used and applied as herein after directed.

Sec. 9. That if any person or persons whatever shall alter or change any public road, unless it be done by permission of the County Court, shall, on conviction thereof, forfeit and pay the sum of five dollars for each week the road is turned out of its old course; and if any person or persons shall erect, or cause to be erected across any public road, any bar, fence, or fall any tree, or brush, or any impediment of any kind whatever, and shall not remove such impediment within twenty four hours, he or they shall forfeit and pay the sum of three dollars for every day the impediment shall remain in said road, to be recovered in the manner prescribed in the fourth section of this act.

Sec. 10. That when to the overseer of the roads it may appear expedient to make causeways, the earth necessary to cover the said causeways shall be taken from both sides, so as to make a drain on each side of the causeway; and he shall erect bridges across all such water courses and other places as may appear to him necessary and expedient.

Sec. 11. That if any overseer of a road shall fail or neglect to keep the road, bridges, or causeways within his precinct clear and in good order, or suffer them to remain uncleared or out of repair for twenty days at any one time, unless hindered by high water, or other sufficient cause, to be adjudged

by the Court having jurisdiction of the same, such overseer shall forfeit and pay for every such offence the sum of twenty five dollars, to be recovered in the manner prescribed in the fourth section of this act.

Sec. 12. That all fines recovered under the provisions of this act, after deducting therefrom all legal costs, the balance shall be paid over to the overseer of the road in the precinct where the penalty accrued; for which amount the overseer shall give his receipt—the money to be applied by him to the improvement and keeping in good repair of his road.

Sec. 13. That every free person liable to work on roads, and if a slave, his master, overseer or employer, may, by calling on the overseer at any time before the day appointed to work on roads, and paying to said overseer the amount of which he or they might be liable for failing or refusing to work on said road, taking said overseer's receipt for the same, shall be exempt from working for every such day so paid for, and also exempt from any penalty for the same.

Sec. 14. That the overseers of roads shall apply all moneys coming into their hands to the improvement of their road in an impartial manner, by hiring hands and applying the work equally throughout his precinct: and should said overseer misapply, or fail or refuse to apply the money coming to his hands in manner as provided for in this section of this act, he shall, for each refusal, or failure, be liable for double the amount so misapplied, to be recovered on motion, as provided for in the fourth section in this act, and he shall be precluded from holding any office in any county in this State until such moneys are fully accounted for: Provided that all reasonable excuses shall be heard and allowed.

Sec. 15. That all male citizens, Indians excepted, between the ages of seventeen and forty five years, and all male slaves over fifteen and under fifty years, shall be liable to work on public roads: Provided that all regularly ordained Ministers of the Gospel, postmasters, public ferrymen, and millers, shall be exempt from working on public roads.

Sec. 16. That it shall be the duty of all overseers of roads, to cause sign boards to be put up at all forks and cross-roads, marked with the number of miles to the next public place; town, or village, pointing the proper direction to the place named on the board: and should there be a water course that requires a bridge, dividing any two road districts, the overseers

of each district shall meet at the same time and place with their hands, and the overseer chosen by the majority present shall superintend the building of such bridge until finished.

Sec. 17. That all laws and parts of laws contrary to, or in conflict with this act, be, and the same are hereby repealed; and that this act be in force and take effect from and after its passage.

Approved, March 15, 1848.

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### CHAPTER 93.

An Act to regulate proceedings in case of forcible entry and detainer.

Section 1. Be it enacted by the Legislature of the State of Texas, That if any person shall make an entry into any lands, tenements, or other real property, except in cases where entry is given by law, or shall make any such entry by force, or if any person shall wilfully and without force, hold over any lands, tenements, or other real property, after the determination of the time for which such lands, tenements, or other real property were let to him, or to the person under whom he claims, after demand in writing for possession thereof, by the person or persons entitled to such possession, such person shall be adjudged guilty of forcible entry and detainer, or of forcible detainer, (as the case may be,) within the intent and meaning of this act.

Sec. 2. Any Justice of the Peace, of any county in this State, shall have jurisdiction of any case arising under this act, and on complaint upon oath of the party aggrieved, or his authorised agent, shall issue his summons to the Sheriff, or any legally authorized officer of his county, commanding him to summon the person against whom such complaint is made, to appear before such Justice, at a time and place, named in such summons, not more than ten, nor less than six days, from the time of issuing such summons, which said summons, shall be served at least five days before the return day thereof, by reading the same to the defendant, or by

leaving a copy of the same with some free white person over the age of sixteen, at his usual place of abode, and the said Justice shall also, at the same time, issue a precept to the Sheriff or other officer as aforesaid, commanding him to summon a jury of six men, freeholders of the county, to appear before him on the day set for trying said complaint to hear and try the same; and if any part of the jurors so summoned, shall fail or refuse to attend or be challenged, then the said Justice may order the Sheriff, or other legal officer, to complete the number, by summoning and returning others forthwith.

Sec. 3. The Sheriff or other officer, shall return to the said Justice, the summon and precept as aforesaid, on the day assigned for trial, and shall state, on the back of said summons, how the same was served, and on the back of said precept the names of the jurors, and if the defendant does not appear, and answer, the justice shall proceed to try the said cause *ex parte*, or may, in his discretion postpone the trial to a time, not exceeding ten days; and the said justice shall issue subpoenas for witnesses, and shall proceed to try said cause, as in other cases of trial by jury before Justices of the Peace.

Sec. 4. The complaint shall describe particularly the lands, tenements, or other possessions in question; and the Justice of the Peace shall keep a record of the proceedings had before him: and if the jury shall find the defendant guilty, he shall give judgment thereon, for the plaintiff to have restitution of the premises and his costs, and shall award his writ of restitution; and if a verdict is given in favor of the defendant, judgment shall be given against the plaintiff for costs, and execution may issue therefor.

Sec. 5. If either party shall feel aggrieved, by the verdict of the jury, or the decision of the Justice, on any trial had under this act, he or she may have an appeal to the District Court, to be obtained in the same manner, and tried in the same way, as appeals from Justices of the Peace, in other cases.

Sec. 6. If the defendant or defendants appeal, he or they shall also insert in the appeal bond, a condition for the payment of all rents becoming due, if any, from the commencement of the suit, until the final determination thereof, if the appeal be taken within five days after the trial had before the Justice, no writ of restitution or execution shall be issued by him; and the District Court, on giving judgment for the plain-

tiff, shall award a writ of restitution and execution for costs, including the costs before the Justice, and if judgment be for the defendant, he shall recover costs in like manner, and have execution for the same.

Approved, March 15, 1848.

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## CHAPTER 94.

An Act to provide for the election of electors of President and Vice President of the United States.

Section 1. Be it enacted by the Legislature of the State of Texas, That on the Tuesday next after the first Monday in November, A. D. 1848, and on the first Tuesday next after the first Monday in November, every four years thereafter, the qualified electors for members of the House of Representatives of the State Legislature, shall elect from among the resident citizens of the State, over twenty-one years of age, and not members of either House of Congress, as many electors of President and Vice President of the United States, as the State of Texas may at the time be entitled to.

Sec. 2. Be it further enacted, That said contemplated election shall be held in the same manner, at the same places, under the same regulations, and by officers or managers appointed in the same way, as elections for members of the House of Representatives of this State may be; except that each qualified voter shall be authorized to vote for the whole number of electors that the State will then be empowered to elect.

Sec. 3. Be it further enacted, That the officers conducting said elections, or the managers thereof, at each precinct shall, under the penalty of one hundred dollars, recoverable in the name of the Governor for the use of the State, on motion made in the District Court by the District Attorney, after ten days previous notice given to the officer or officers failing to make return within three days after holding the same, correctly add up and compare the number of votes given for each person there voted for as an elector; and shall make out in writing,



seal up, certify, and transmit the result of said election to the Chief Justice or other proper officer of their county in the manner prescribed by the laws regulating elections for members of the State Legislature.

Sec. 4. Be it further enacted, That it shall be and is hereby made the duty of the Chief Justice or other proper officer of each county, within four days after the election, under the penalty of five hundred dollars recoverable in the name of the Governor for the use of the State on motion made in the District Court by the District Attorney, after ten days previous notice given to the officer failing to make return, to make out in writing, certify, seal up, and transmit by mail or other expeditious conveyance, a correct statement of the election held at all the precincts in his county, directed to the Secretary of State at the Seat of Government of the State, as is now required by law in other elections, and endorsed thereon: "Election Returns for the county of ———," as the name may be.

Sec. 5. Be it further enacted, That it shall be the duty of the Secretary of State, in presence of the Governor, Lieutenant Governor, and Attorney General, or any, or either of them, on the fourth Monday in November next after said election, to open all the election returns received by him, and correctly add up all the votes cast in the several counties for each of said electors, and cause the result thereof, with the names of the persons elected to be forthwith published in some newspaper printed at the seat of government for this State, and in writing notify the persons elected, respectively of their election; and in the event of a failure to perform the duties in this act prescribed, and in the manner specified, said Secretary of State shall forfeit and pay to the Governor for the use of the State, the sum of one thousand dollars, which may be recovered by the Attorney General, upon motion made in the District Court of the county in which the seat of government may be then located, after giving ten days notice thereof in writing to the Secretary of State.

Sec. 6. Be it further enacted, That the electors so chosen shall convene in the capitol, at the seat of government for the State, on the first Wednesday of December next after their election, and vote for President and Vice President of the United States, and make return thereof as is required by the laws of the United States.

Sec. 7. Be it further enacted, That if any person so chosen

elector, shall by death, or other disabling cause, fail to attend by the hour of two o'clock in the afternoon of the day pointed out in this act, and vote as hereby required, a majority of the electors present, after having convened in accordance with the provisions of this act, may appoint some other person to act in the place of the absentee, and shall immediately report their action to the Secretary of State aforesaid.

Sec. 8. Be it further enacted, That the Governor shall, on or before the meeting of the electors, cause three lists of the names of such electors to be made out and delivered to them as required by act of Congress.

Sec. 9. Be it further enacted, That for the purpose of carrying this act into effect, it shall be the duty of the Governor, or in case of his inability, then of the Lieutenant Governor, periodically, as herein specified, to issue a proclamation under the seal of the State, and have the same published, for at least six weeks before the election in some newspaper printed at the seat of government, requiring the Chief Justice or other proper officer of each county in the State to cause an election to be held at each precinct in his county, at the time and for the purpose prescribed in and by this act.

Sec. 10. Be it further enacted, That this act shall have effect from and after its passage.

Approved, March 15, 1848.

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## CHAPTER 95.

### An Act concerning proceedings in the District Courts.

Section 1. Be it enacted by the Legislature of the State of Texas, That the plaintiff in any civil suit, at any time before final judgment, upon motion of the defendant or of any officer of the court interested in the costs accruing in such suit, may be ruled to give security for the costs; and if such rule be entered against the plaintiff, and he fail to comply therewith, on or before the first day of the next term of the court, the suit shall be dismissed.

Sec. 2. That all bonds given as security for costs, shall

have the force and effect of judgments against all the obligors for the said costs.

Sec. 3. That if either party to any process or suit shall desire the testimony of the surety or sureties on his bond, given for costs or other purposes in the cause, he may give other good and sufficient security to be approved of by the court, but shall not thereby delay the progress of the cause: Provided, this section shall not apply to suits now pending.

Sec. 4. That executors and administrators of deceased person's estates, shall not be ruled to give security for costs in any suit to recover money due or property belonging to the estate. And no security shall be exacted of executors or administrators of deceased person's estates, in appeals taken in suing for such money or property, or in defending suits brought against such estates for money or property.

Sec. 5. That suits may be commenced in the District Courts, upon all appeal bonds, given in the County Courts, pertaining to the estates of decedents and wards, and upon all bonds given in the District Courts, to remove causes of the estates of decedents and wards, to the District Courts within four years next after the right of action shall have accrued on said bonds, and not afterwards, saving to persons non compos mentis, infants, and femes covert two years after their respective disabilities shall be removed.

Sec. 6. That the bonds of executors, administrators and guardians, and the bonds described in the section next preceding, may be put in suit, in the name, and at the cost of any person or persons injured by a breach thereof, until the whole penalty shall be recovered thereon, and without the assignment of said bonds being made by the Chief Justice of the County Court.

Sec. 7. That any person interested, desiring to have the proceedings of the County Courts pertaining to the estates of decedents and wards revised and corrected, may do so, by application to the Judge of the District Court, and the Judge of the District Court shall, upon such application being made, grant a writ of certiorari, to remove the proceedings to the District Court, there to be revised and corrected. And such certiorari shall not operate as a supersedeas, unless such applicant shall give a bond with good and sufficient sureties, payable to the Chief Justice of the County Court, in the same manner as in cases of appeal.

Sec. 8. That the Clerk of the County Court shall, upon being served with the certiorari, make out a certified transcript of the proceedings had at the time of the service of the writ, and transmit the same to the District Court to which the same is returnable.

Sec. 9. That writs of certiorari to remove the proceedings of the County Courts, pertaining to the estates of decedents and wards, may be sued out within two years after the proceedings were had, that are sought to be revised and corrected, and not afterwards, saving to persons non compos mentis, infants, and femes covert two years after their respective disabilities shall be removed.

Sec. 10. That all civil writs and citations, (except subpoenas for witnesses and notices,) shall be returnable on the first day of the term of the Court after the issuance thereof; and in order to compel the defendant to plead at the return term of the Court, the writ of citation shall be served at least five days before the first day of said return term, exclusive of the days of service and return; and if the writ be issued too late, or cannot be served at least five days before the first day of said return term, exclusive of the days of service and return, the Sheriff or other officer to whom the same is directed, shall proceed, nevertheless, to serve the same, at any time before the return day thereof; which service shall compel the defendant to plead at the first term after the return thereof.

Sec. 11. That the return of the Sheriff or other officer, shall be made in writing on the back of the process or attached thereto, stating fully the time and manner of service, and shall be signed by him officially.

Sec. 12. That in all cases where process has been served, according to law, (except such causes as have been brought up from Justices of the Peace,) in which the defendant has not filed his plea on or before the fourth day of the term of the court, the plaintiff may, at any time, after said fourth day, have a final judgment against the defendant; and if the cause of action is liquidated and proved by any instrument in writing, the Clerk shall, unless a jury is asked for by either party, assess the damages of the plaintiff; but if the cause of action is unliquidated a jury shall be sworn to assess the damages of the plaintiff: Provided however, that in suits when service of the process has been made by publication no such judgment by default shall be taken at the term of the Court to which

such process is returnable; but all such suits shall be continued until the next term of the Court, when final judgment by default may be taken as in other cases: and provided also, in all cases, that if the defendant in person, or by his agent or attorney, shall appear in the case, without service or process being made, or perfected, then such appearance shall have the same effect as if the service of such process was made or perfected.

Sec. 13. That if the plaintiff, his agent or attorney shall, at the time of instituting his suit, or at any time during the progress thereof, make affidavit before the Clerk of the Court, that the defendant is not a resident of this State, or that he is absent from this State, or that he is a transient person, or that his residence is unknown to the affiant, the Clerk of the Court shall issue a citation to the proper officer, (which citation shall contain a brief statement of the cause of action,) commanding the said officer to summon the defendant, by making publication of the citation in some newspaper published in the county where the writ issued, if there be a newspaper published in said county; but if not, then in the nearest county where a newspaper is published, for four weeks previous to the return day of such process.

Sec. 14. That if the plaintiff, his agent or attorney, shall, at the time of instituting his suit, or at any time during the progress thereof, make affidavit that the names of the heirs, successors, or legal representatives of any deceased person, party to such suit, are unknown to the affiant, the Clerk of the Court shall issue a like writ, directed to the proper officer, commanding him to summon such heirs, successors, or legal representatives, whose names are unknown, giving the names of the original deceased party, their ancestor, by making publication of the citation in some newspaper published in the county where the writ issued, if there be a newspaper published in said county; but if not, then in the nearest county where a newspaper is published, for eight weeks previous to the return day of such process: When such notice is given and no appearance is entered within the time allowed for pleading, the Court shall appoint an attorney to defend in behalf of such heirs, successors and legal representatives, and proceed as in other cases.

Sec. 15. That no application for continuance shall be heard before the defendant files his defence: nor shall any continuance be allowed unless by operation of law or by consent of

the parties, or for sufficient cause supported by affidavit: On the first application for continuance, if the cause of continuance be the want of testimony material to the case, the party applying for the same shall make affidavit that he has used due diligence to procure said testimony, stating such diligence: On the second application for continuance, if the cause of continuance be the want of testimony material to the case, the same shall be shown, and that the party applying has used due diligence to procure said testimony, and state such diligence; the cause of failure, if known; that the testimony cannot be obtained from any other source; and if it be for the absence of a witness, he shall state the name and residence of the witness, and what he expects to prove by him; and that the continuance is not sought for delay, but that justice may be done.

Sec. 16. That such depositions may be returned to the Court, either by mail, by a party interested in taking the same, or other private conveyance: If sent by mail, the postmaster, or his deputy, mailing the same shall endorse thereon that he received them from the hands of the officer before whom they were taken; and the Clerk taking them from the post-office shall endorse on them that he received them from the post-office, and sign his name thereto: If sent by other conveyance, the person delivering them into Court shall make affidavit before the Clerk that he received them from the hands of the officer before whom they were taken, and that they have not been out of his possession since, and that they have undergone no alteration since.

Sec. 17. That depositions taken and returned in the manner provided for by this act, and an act entitled "an act to regulate proceedings in the District Courts," approved May 13th, 1846, may be read as evidence upon the trial of any suit in which they are taken, subject to all legal exceptions which might be made to the interrogatories and answers were the witness personally present before the Court, giving evidence: Provided that no deposition of a witness, except when the witness is a female, shall be permitted to be read in evidence unless the party offering the same, his agent, attorney, or some competent person shall first make oath that the witness is without the limits of the county where the suit is pending, or that such witness is dead, or that by reason of age, sickness, or official duty such witness is unable to attend the Court.

Sec. 18. That when any person may anticipate the institution of a suit in which he may be interested and may desire to perpetuate the testimony of a witness or witnesses to be used in such suit, he, his agent, or attorney, may file a written statement in the Court of the county where such suit could be instituted representing the facts and the names of the persons known to be interested adversely to said person, a copy of which statement and writ shall be served on the persons interested adversely, after which depositions may be taken and returned by any of the parties to such statement in like manner as provided for by this act, and an act "entitled an act to regulate proceedings in the District Courts," approved 13th May, A. D. 1846, and shall be entered on the records of the Court, and may be used in any suit or suits, which may be thereafter instituted by or between any of the parties to the statement, or those claiming under them, in like manner as if such depositions had been taken after the institution of such suit or suits, and when suits have been instituted, all such depositions so taken and returned shall be subject to like exceptions as all other depositions.

Sec. 19. That any party to a civil suit, believing himself aggrieved by any final judgment or decree of the District Court may appeal from such final judgment or decree to the Supreme Court during the term of the District Court at which such final judgment or decree was rendered, and notice of such appeal shall in all cases be entered of record.

Sec. 20. That commissions to take the depositions of witnesses residing beyond the limits of the State, may be directed to any Notary Public or Clerk of a Court of record within the State or county where it is stated in the notice that such witness resides; and all such commissions shall be executed and returned in like manner as they are required to be executed and returned by a Judge of a Court of record: and depositions so taken and returned shall be governed by the same rules as are provided for other depositions in in the District Court.

Sec. 21. That nothing contained in this act shall be so construed as to effect any section of an act entitled "an act to regulate proceedings in the District Courts," approved 13th May, A. D. 1846, that is not hereby repealed.

Sec. 22. That the seventh, eleventh, twelfth, fifteenth, seventeenth, twenty third, twenty fourth, twenty sixth, twenty

seventh, fifty first, seventieth, seventy fourth, seventy fifth, ninety fourth, one hundred and thirty fourth, and one hundred and forty first sections, of "an act to regulate proceedings in the District Courts," approved 13th May, A. D. 1846, are hereby repealed; and this act shall take effect from and after the first day of August next.

Approved, March 16, 1848.

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#### CHAPTER 96.

An Act supplementary to an act, entitled "an act to restore lands sold for Taxes and bid in by the Government. to the former owners," approved April 27th, 1846.

Section 1. Be it enacted by the Legislature of the State of Texas, That the time limited by the act, to which this is a supplement, to the first day of April, 1847, shall be extended to the first day of April, 1849, and that the State does hereby relinquish to the former owners thereof, all the lands purchased by the State for Taxes, upon said owners complying with the provisions of the first section of said act, to which this is a supplement, on or before the first day of April, 1849.

Sec. 2. Be it further enacted, That this act take effect from its passage.

Approved. March 16, 1848.

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#### CHAPTER 97.

An Act changing the name of the County Seat of Collin County.

Section 1. Be it enacted by the Legislature of the State of Texas, That the County Seat of Collin County shall be known and called McKinney; and that this act take effect from the 1st day of August next.

Approved. March 16, 1848.



CHAPTER 98.

An Act to organize County Courts.

Section 1. Be it enacted by the Legislature of the State of Texas, That there shall be in each county of this State an inferior Court, to be styled "The County Court" which shall be composed of one Chief Justice.

Sec. 2. That the said Court shall have the power to take the Probate of Wills, to appoint guardians, to grant letters testamentary, and of administration, to settle the accounts of executors, administrators and guardians, to transact all business appertaining to the estates of deceased persons, minors, idiots, lunatics, and persons non compos mentis, and the settlement, partition and distribution of such estates; which powers shall be exercised in the manner perscribed by law.

Sec. 3. That the said Courts shall have power to lay off and divide their respective counties into convenient precincts for the election of Justices of the Peace and Constables, to establish places in such precincts where elections shall be held; to establish public ferries in their respective counties, wherever the public interest may require; to license ferrymen and regulate the tolls to be charged at all public ferries in their counties; to lay out and establish, change and discontinue public roads and highways; to build bridges; to appoint overseers and apportion hands, to work on public roads, highways and bridges, and said Courts shall have and exercise general control and superintendence over all roads, highways, bridges and ferries in their counties; said Courts shall also have power, and it shall be their duty to provide Court Houses, Jails and all necessary public buildings; to allow and settle all county accounts, and direct their payment in such manner and at such times as may meet the public interest; to try contested elections for county officers; to appoint patrols for their respective counties, whenever in their opinion the public welfare may require it; and to exercise general jurisdiction over police matters in their respective counties; and it shall be the duty of said Courts to provide for the support of indigent persons resident in the county, who can not support themselves, and for the burial of paupers.

Sec. 4. That the said County Courts shall have power to levy and collect a tax for county purposes, upon all subjects of

taxation in their respective counties on which a tax may be levied by the State; provided said tax shall not exceed in any one year, one half the amount of the tax levied by the State on such subjects of taxation; and provided, also, that such tax shall be apportioned in the same manner as the State tax; and the said tax upon all subjects of taxation other than trades and occupations and professions shall be assessed and collected by the assessor and collector of State taxes, in the same manner as the State tax, and shall be paid by him into the County Treasury; and all of said taxes upon trades, occupations and professions shall be collected by the County Treasurer in the same manner as the State tax upon such subjects is collected, and the County Treasurer shall have the same power to enforce the collection of such taxes for the counties as the assessor and collector has for the State.

Sec. 5. That the said Courts shall examine and adjust the accounts and books of the county Treasurer, and shall annually cause a detailed statement of all the receipts, expenditures and debts of their respective counties to be printed in some newspaper printed in the county, or to be posted up in some conspicuous place in the office of the Clerk of said Court.

Sec. 6. That the said Courts shall have and exercise all the powers which by law are vested in County Courts or boards of County Commissioners, or Chief and Associate Justices as Land Commissioners.

Sec. 7. That each county Court of this State shall have a Seal whereon shall be engraved the words "County Court, ——— County, Texas;" the blank to be filled with the name of the county; which seal shall be kept in the Clerk's office, and shall be used in the authentication of all official acts of said Court, or of the Clerk of said Court, or of the Chief Justice of said Court, or of the County Commissioners when performing any of the duties of the Chief Justice which they are authorized to perform, in all cases where a seal shall be necessary for the authentication of any of said acts.

Sec. 8. That each County Court shall have full power and authority to issue all such notices, citations, writs and process as may be necessary for the proper execution of the powers and duties imposed upon such Court, and to enforce its jurisdiction; and all such notices, citations, writs and process shall be dated and signed by the Clerk, and when not otherwise directed by law shall be executed at least five days before the return

day thereof, which shall be specified in the same: provided however that subpoenas for witnesses may be executed and returned forthwith, and all such citations, writs, and process other than subpoenas for witnesses shall have the seal of such Court affixed thereto, and all such citations, writs, subpoenas and process may be directed to any lawful officer of this State, whose duty it shall be to execute and return the same.

Sec. 9. That the County Courts shall have like power to punish contempts as the District Courts can or may have and exercise.

Sec. 10. That each County Court shall cause to be procured, and kept in the Clerk's office, suitable books in which it shall be the duty of the Clerk to record all the proceedings of each term of the Court, which record shall be read over, and signed by the Chief Justice or the member of the Court presiding, at the end of each term, and the Clerk shall also record all the proceedings of such Court that are authorized to take place in the vacation between the terms, and such records shall be read over on the first day of the term of the proper Court next after such proceedings took place, and shall be signed by the Chief Justice or member of the Court presiding.

Sec. 11. That there shall be elected, by the qualified electors of each County in this State, on the first Monday in August, 1848, and every two years thereafter, one Chief Justice and four County Commissioners who shall each hold their offices for a term of two years, and until their successors respectively shall be elected and qualified; in case of a vacancy in either of said offices, before the expiration of the term of two years from his election, an election shall be ordered to fill such office, for the unexpired term, and the person so elected shall continue to discharge the duties of his office until his successor shall be elected and qualified: provided, however, that not more than one of said Commissioners shall be a resident of the same Justices' precinct, and at any regular election, the four persons having the highest number of votes and resident in different precincts, shall be declared to be elected, and at an election to fill a vacancy, the person having the highest number of votes and not resident in a precinct where there is already one of said Commissioners, shall be declared to be elected, provided, also, that when any county shall not have as many as four precincts, then only two of said Commissioners may be elected from any one precinct.

Sec. 12. That neither the Chief Justice or any of said county Commissioners shall enter upon the duties of their offices until they shall have first taken and subscribed the oath of office, prescribed by the Constitution, before some officer authorized to administer oaths, which oath, together with the certificate of the officer who administered the same, shall be filed and recorded in the Clerk's office of the County Court, and if either of said officers shall neglect to accept and qualify as aforesaid, within ten days after he is declared duly elected, his election shall be deemed void, and another election shall be ordered to fill the office.

Sec. 13. That there shall be elected by the qualified electors of each county of this State, on the first Monday in August 1848, and every two years thereafter, a Clerk of said County Court, who shall hold his office for a term of two years, and until his successor is elected and qualified; in case of a vacancy in said office of Clerk, before the expiration of the term of two years from the regular election, an election shall be ordered to fill such vacancy, for the unexpired term, and the person so elected shall continue to perform the duties of his office until his successor shall be elected and qualified.

Sec. 14. That every person elected Clerk of the County Court, before entering upon the duties of the office, shall enter into bond, with two or more good and sufficient sureties, to be approved by the Chief Justice, in a sum not less than two thousand dollars, payable to the Governor of the State, and his successors in office, conditioned, that the person so elected, shall well and truly discharge and perform all the duties of the office of Clerk of the County Court, and shall also take and subscribe the oath of office prescribed by the Constitution, before some officer authorized to administer oaths, which shall be endorsed on, or attached to said bond, together with the certificate of the officer who administered the same: such bond and oath shall be recorded in the County Clerk's office, and shall be deposited with the Clerk of the District Court of the County; such bond shall not be void on the first recovery, but may be sued on from time to time, in the name or names of any person or persons injured by a breach thereof, until the whole penalty shall have been recovered.

Sec. 15. That the said Clerk shall have the custody of all the minutes, records, books, and papers belonging, or appertaining to the County Courts, and Probate Courts, that have

heretofore existed in their respective counties, and it shall be their duty to attend to the arrangement, and preservation of the same.

Sec. 16. That the Clerks of the several County Courts of this State shall have power, by writing, under their hand and seal, to appoint a deputy, for whose official acts, they shall be responsible, and such deputy shall take and subscribe the oath of office prescribed by the Constitution, before some officer authorized to administer oaths, which shall be endorsed on or attached to the appointment, together with the certificate of the officer who administered the same, and such appointment and oath shall be recorded with the county records, and deposited with the Clerk of the District Court of the county.

Sec. 17. That if from any cause the Clerk of the County Court is absent from the county seat, or is unable or unwilling to attend to the duties of his office, and he has no deputy, or if any duties are required to be done in the office of said Clerk, before an election can be had to fill a vacancy, the Chief Justice may, by an order entered on the minutes of the Court, either in vacation or term time, appoint a Clerk pro tem for said Court, and any person appointed shall take the oath, and give bond in like manner as herein provided for Clerks who are elected, but such appointment, shall in no case continue in force for more than thirty days.

Sec. 18. That whenever the office of Clerk of the County Court shall become vacant, all books, records, papers and effects belonging or appertaining to such office, shall be delivered to the person who may be appointed, or elected and qualified to fill such vacancy, when demanded by him, and any person having possession of any such books, records, papers, and effects, who shall neglect to deliver them to the person so appointed or elected and qualified, when demanded by him, may be cited to appear before the Chief Justice, either in term time or in vacation, to show cause why he should not so deliver such books, records, papers and effects, and on the return of such citation served, the Chief Justice may cause the person so neglecting to be arrested and imprisoned until he shall so deliver such books, records, papers and effects, unless good cause be shown why the same should not be done.

Sec. 19. That when in the record of any order, judgment or decree of the County Court, there shall be any mistake, and there shall be any papers on file in said Court, whereby such

record may be safely amended, the Chief Justice may cause the same to be amended in open Court according to the truth and justice of the case, but in all such cases the person or persons, to be effected by such amendment shall have notice of the application for such amendment.

Sec. 20. That the regular terms of the County Court shall commence and be held at the Court House of each county in this State, on the last Monday in every month, for the Probate of wills, the granting of letters testamentary, of administration and of guardianship, and the transaction of all business growing out of, or connected with the powers and jurisdiction of the County Court over executors, administrators and guardians, and the estates of deceased persons, minors, idiots, lunatics and persons non compos mentis; such terms shall be held by the Chief Justice, without the assistance of any of the County Commissioners, and may be continued from day to day for one week, but not longer, and the Chief Justice shall have authority to transact such business growing out of or connected with such powers and jurisdiction, during the vacation between said terms of said Court, as may be authorized by law.

Sec. 21. That a regular term of the County Court shall commence and be held at the Court House of each county in this State, on the third Monday in February, May, August and November, in every year, for the transaction of all business growing out of or connected with the powers and jurisdiction of the County Court, over all matters other than those named in the second and twentieth sections of this act; such terms shall be held by the Chief Justice, with the assistance of any two or more of the County Commissioners, and may continue for three days but not longer, and special terms of said Court may be held in like manner, and for like purposes as provided for in this section, at such other times as the Chief Justice may appoint, provided, however, that no county tax shall be levied unless at some one of the regular terms, and with the assent of the Chief Justice and three of the County Commissioners, or the assent of the four Commissioners.

Sec. 22. That the Chief Justice and County Commissioners shall each receive one dollar and fifty cents, for every day they may be necessarily engaged in attendance on any regular term of said Court, that they are required to hold, to be paid out of the County Treasury, but they shall not be paid for any special term.

Sec. 23. That during any vacancy in the office of Chief Justice, any two of the County Commissioners shall have power to hold all such Courts, as the Chief Justice can hold, and to do and perform all such official acts as he can do and perform.

Sec. 24. That if any person who has been elected or appointed Clerk of the County Court, shall neglect to give bond and take the oath of office, within ten days after he shall have been declared elected or appointed, the office shall be deemed vacant, and a new election ordered or a new appointment made.

Sec. 25. That if any Chief Justice, County Commissioner or Clerk of the County Court, shall be guilty of any misdemeanor in office, he may be indicted therefor, by a grand jury of the county, and on conviction in the District Court, his office shall be declared vacant by the Court, and he shall thereafter be incapable of holding any office in this State.

Sec. 26. That the Chief Justices, County Commissioners, Clerks of the County Courts, and their deputies, shall have power to administer oaths of office, and all other oaths and affirmations, and give certificates thereof.

Sec. 27. That the Chief Justice of the County Court, shall have power to take the acknowledgment and proof of all instruments of writing for the purpose of being recorded, and they shall also have power to examine and take the acknowledgment of married women, to all deeds of their separate property, and all deeds to property, for the sale of which their consent is required, in like manner, and under the same rules and regulations as are provided for Notaries Public, and all acts so done by any Chief Justice of a County Court, in this State, shall have the same force and effect as if done by a Notary Public.

Sec. 28. That all books, records, papers, and effects belonging, or appertaining to the County and Probate Courts of the different counties of this State shall be transferred to the County Court established by this act, and the said County Court shall have and exercise all the powers conferred by law on County Courts, which are not herein enumerated, and the various officers of said Court shall have and exercise all the powers not herein enumerated, which are conferred by law on such officers, and such powers shall be exercised in accordance with the laws conferring them, and the provisions of this act.

Sec. 29. That this act take effect and be in force on and after the first Monday in August, 1848, and on and after that day an act organizing County Courts, approved 13th May, 1846, shall be and is hereby repealed.

Approved, March 16, 1848.

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## CHAPTER 99.

### An Act regulating Elections.

Section 1. Be it enacted by the Legislature of the State of Texas, That the County Courts of each county, shall at their first regular session, after this act takes effect and thereafter at their first regular session in each year if they deem necessary, designate such places for holding elections as may be most suitable and convenient for the people, which places so designated shall be numbered and called election precincts, and they shall also at the same time select and appoint from among the residents at, or near each election precinct, some suitable person to be the presiding officer at such precinct in all elections which shall be held thereat, during the year in which he may be appointed.

Sec. 2. Be it further enacted, That forms for notices, writs and returns of elections as furnished by the Secretary of State to the Chief Justice of each county, shall be preserved in the office of the County Clerk.

Sec. 3. Be it further enacted, That the Chief Justices of the several counties, or in case of vacancy in that office, or any inability of the Chief Justice to act, then any two of the County Commissioners, shall order all elections in their respective counties.

Sec. 4. Be it further enacted, That whenever an election may be ordered, except in cases of vacancy in the Legislature, at least ten days notice of the election shall be given by the officer ordering it, by notice posted up at each election precinct, or by publication in some newspaper if one be published in the county, specifying the time and places at which such election is to be held, and the officer or officers to be chosen, in



cases of elections to fill vacancies in the Legislature, like notices of not more than ten nor less than five days shall be given immediately on the receipt of the Governor's proclamation therefor.

Sec. 5. Be it further enacted, That in all cases of vacancy in any civil office of the county, by death, resignation or otherwise, which by law is filled by election of the people, the officer or officers authorized by this act to order elections, shall immediately make such order for an election to fill the vacancy, by giving like notice and issuing writs as prescribed for regulating elections.

Sec. 6. Be it further enacted, That it shall be the duty of the officer ordering an election, to issue writs of election, to the several presiding officers, who may have been previously appointed, as herein directed, or in case of the death, removal or other inability of any presiding officer, then to some other suitable person resident at, or near the precinct whom he may select as presiding officer in place of the one disabled to act, in which writs shall be stated particularly the officer or officers to be chosen, and the day of election, and he shall also send with the writ a copy of the form of election returns furnished by the Secretary of State.

Sec. 7. Be it further enacted, That the presiding officer of each precinct shall, on or before the day of election select two judges, and two clerks, who, together with the presiding officer, shall be the managers of the election, and he shall administer to each of them an oath, that they will well and truly conduct the election, without partiality or prejudice and agreeably to law, according to the best of their skill and understanding, and the presiding officer shall be also sworn by a Justice of the Peace, if one be present, if not, by one of the Judges.

Sec. 8. Be it further enacted, That in case the presiding officer appointed as herein before provided, should fail to attend on the day of election, or refuse to act, it shall be lawful for the electors present at the precinct on that day, to appoint a presiding officer to act at that election, and the person so appointed shall be authorized to act as presiding officer as fully as if appointed by the court, or officer ordering the election and shall be qualified in the same manner, provided, that in such cases the managers shall certify in their returns that the presiding officer failed to attend, or refused to act, and that

the person acting as such was duly chosen by the electors present.

Sec. 9. Be it further enacted, That electors in all cases shall be privileged from arrest during their attendance at elections, and in going to and returning from the same, allowing one day for every twenty miles they may necessarily travel exclusive of the day of election, except in cases of treason, felony, or breach of the peace, and service of all other process for any other cause against any elector executed during such privilege shall be void.

Sec. 10. Be it further enacted, That the polls shall not be opened before nine o'clock, A. M., nor finally close before four o'clock, P. M., and not more than one adjournment shall be had during the day which shall not exceed one hour.

Sec. 11. Be it further enacted, That each of the clerks shall write and number the name of each voter, at the time of his voting, and in case the voter be not entitled to vote for all the officers, that the election is held for, at that precinct, the clerk shall set down opposite to his name, the officer or officers for which such voter is entitled to vote, for the purpose of afterwards purging the polls, in case the election shall be contested; and one of the managers shall in every case at the time of receiving the ticket or ballot write upon it the voters number, corresponding with the clerk's list; and no manager or other officer of an election shall unfold, or examine the vote received, nor shall they examine the endorsements on the tickets, when the votes are counted out, nor at any time subsequent to their being received into the ballot box, and no ticket not thus numbered shall be counted or noticed in counting out the votes.

Sec. 12. Be it further enacted, That immediately after closing the polls, the managers of the election shall proceed to count the votes, make out a correct return, signed by the managers, which shall be sealed up and delivered to the Chief Justice of the County, (or in the absence of the Chief Justice, to the Clerk of the County Court, who shall file the same in his office, and deliver said return to the Chief Justice on the day appointed to open and compare the polls;) by one of the managers, or some other respectable person, who shall swear that he received the package from one of the managers or the returning officer, and that the seals have not been broken since, which delivery shall be upon oath before the return day of said

election, a duplicate of which return, shall be kept by the presiding officer.

Sec. 13. Be it further enacted, That when any person offering to vote, shall be objected to, the managers shall examine him upon oath, touching the points objected to, and if he fail establishing his qualifications, to their satisfaction, his vote shall be rejected, and if any person shall vote for any officer or officers more than one time in the same day, or give an illegal vote, he shall be liable to indictment, and upon conviction before any competent tribunal, shall forfeit and pay for every such offence not less than fifty dollars, nor more than five hundred dollars, to go to the Treasury of the county.

Sec. 14. Be it further enacted, That if any manager or other person to whom election returns shall have been entrusted, fails or refuses to deliver the same on oath to the Chief Justice or County Clerk or other officer ordering the election within ten days of the day of election, such person so offending shall be liable to prosecution by information or indictment in the District Court of the county in which he so offends, and on conviction, shall forfeit and pay, or be fined in a sum not less than fifty, nor more than five hundred dollars, to go to the County Treasury.

Sec. 15. Be it further enacted, That the election returns shall not be opened by the officer to whom they are returned, before return day, or tenth day, and exclusive of the day of election; at the expiration of that time he shall open them, and estimate the result, recording the state of the polls of each precinct in a book to be kept by him for that purpose, and after making such estimate, he shall deliver to the candidate or candidates for whom the greatest number of votes have been polled, a certificate of election, naming therein the office to which he has been elected, the number of votes polled for him and the day on which the election was held, and shall sign the same and cause the seal of the County Court to be thereon impressed, and shall also make returns of the result of the election, for members of the Legislature, to the Secretary of State.

Sec. 16. Be it further enacted, That when an election shall have been held for members of the Legislature, in a district composed of more counties than one, the Chief Justice or other officer, to whom the returns in each county may be made, who is not authorized to give certificates of election to such members of the Legislature, shall make out and send complete re-

turns of such election for members to the Legislature in their respective counties immediately after examining and recording the same to the Chief Justice of the county who may be so authorized, which return shall be sealed up, and the name of the officer forwarding them, written across the seal, and the package marked on the outside, Election Returns which package may be sent by mail; the Chief Justice to whom the returns are so forwarded, shall upon the twentieth day after the election, which shall be the return day for such elections, open and examine said returns, and after estimating the result and recording the same, give a certificate of election to the candidate for whom the greatest number of votes shall have been polled.

Sec. 17. Be it further enacted, That whenever it so happens in any election, that there is a tie between two or more candidates for the same office, all of whom cannot be elected, the officer to whom the returns are made, shall declare such election void as between such candidates only, and immediately order a new election for that office, first giving not less than five days notice thereof.

Sec. 18. Be it further enacted, That any person intending to contest the election of any one holding a certificate of election shall within ten days after the return day give him notice thereof in writing, and deliver to him a written statement of the grounds on which he relies to sustain such contest, and the person elect as aforesaid, shall within ten days after receiving such notice, deliver or cause to be delivered his reply to the statement of the contestor.

Sec. 19. Be it further enacted, That the notices and written statements provided for in the foregoing section, shall be served on the opposite party in person if he can be found, if not, then by leaving the same at his usual place of abode, or business.

Sec. 20. Be it further enacted, That if the contest be for the validity of an election for any county officer, a copy of the notices and other papers served on the parties, shall be filed with the Clerk of the County court and as soon as convenient the County Court shall convene in special session for the trial of the contest, notice of the time of meeting having been given to the parties, and if on trial any votes be found to be illegal, the court shall subtract such votes from the poll of the candidate for whom they are given, and shall also hear and consider the

evidence given by the parties for and against, the grounds assumed by them on their written statement, and no other, and after full and fair investigation they shall decide to whom the office belongs or set the election aside, and order a new one, as the case may require.

Sec. 21. Be it further enacted, That if the contest be for the trial of the validity of an election for members of the Legislature, a copy of the notices and other papers served on the parties as required in the 18th and 19th sections of this act, shall within ten days after the service thereof be filed with the Chief Justice or officer to whom the returns are made, and he shall envelope the same, together with a copy of the poll book or register of each precinct or county, returned to him and seal the same, writing his name across the seals, and shall address the packet to the Speaker of the House of Representatives, or President of the Senate, as the case may be; and shall forward the same by mail to the seat of government so as to reach there before the convening of the Legislature if possible.

Sec. 22. Be it further enacted, That in the cases provided for in the preceding section, so soon as the notice and other papers are filed, either party may apply to the Clerk of the County Court, for a commission to be directed to some Notary Public, or two Justices of the Peace, to act as commissioners in taking testimony by deposition, touching the pending contest, of the time and place of taking testimony, both parties shall be notified by the commissioners; no witness shall be examined without such notice, except in the presence of the parties or their attorneys, and the examination shall be conducted according to the rules of evidence, not more than fifteen days from the issuance of the commission shall be allowed to take testimony, and at the expiration of that time, the commissioner shall return the testimony written in a fair hand and signed by the several witnesses, and transfer to the Clerk of the County Court, who shall seal the same and address, and send them by mail to the Speaker of the House of Representatives, or President of the Senate, as the case may be, endorsing on the outside what it contains.

Sec. 23. Be it further enacted, That if any officer conducting an election, or to whom any duty in relation thereto is assigned by law, shall directly or indirectly so interfere in the election as to show undue partiality or use undue influence in the execution of his office for any of the candidates, he shall be

liable to prosecution by information or indictment in the District Court, and on conviction, shall forfeit and pay, or be fined in a sum not less than fifty nor more than five hundred dollars to be paid into the County Treasury, and moreover shall be deprived of the right of again filling any such office.

Sec. 24. Be it further enacted, That any person being a candidate who shall directly or indirectly offer, give or agree to give any elector, money or other reward in order to be elected, if such candidate shall be elected to the Legislature, he shall on due proof thereof, made to the House of which he is a member, be expelled and be disabled to be again elected for two years, and if he was a candidate for any county office, shall, on conviction of the offence mentioned in this section, be fined in a sum not less than twenty-five nor more than two hundred dollars, or be removed from office, at the discretion of the jury.

Sec. 25. Be it further enacted, That any person whatever, who shall in any election use or attempt to use any undue influence thereon, by threat, direct or indirect, by exciting or raising any tumult at any election, shall be liable to prosecution by information or indictment, in the District Court, and on conviction shall be fined in a sum not less than twenty nor more than one hundred dollars, or be imprisoned for not more than one month, at the discretion of the jury trying the case.

Sec. 26. Be it further enacted, That in all cases where a county is not organized, and there is no officer in the same authorized by law to organize such county, the Chief Justice of the nearest county, which is organized, may order elections for county officers, in any such disorganized county, and appoint the presiding officers and managers and Clerks of election as prescribed by law in other cases.

Sec. 27. Be it further enacted, That if from any cause there should be a vacancy in the office of Chief Justice of any county, a majority of the Commissioners of the County Court shall order a new election to fill such vacancy, to be conducted in the same manner and form as other elections for county officers.

Sec. 28. Be it further enacted, That an act entitled an act regulating elections, approved, May 11th, 1846, be and the same is hereby repealed, and that this act take effect and be in force from and after the first day of May next.

Approved, March 16, 1848.

CHAPTER 100.

An Act to amend the seventeenth and nineteenth sections of "an act regulating Juries," approved 4th May, A. D. 1846.

Section 1. Be it enacted by the Legislature of the State of Texas, That the seventeenth section of the above recited act, be so amended as to read as follows, to wit: That when from challenges or any other cause, there shall not be a jury to determine any case, civil or criminal, which may be called for trial, the Sheriff or other officer shall, by order of the Court, return Jurymen of the by-standers, sufficient to form or complete the panel, and if during the trial of any civil or criminal case, any Juror shall from any cause become unable to serve, the Sheriff or other officer shall, by order of the Court return a Juryman of the by-standers to supply his place, and he shall be sworn as other talismen. and the trial commenced anew; provided, no person shall be considered competent to serve on any Jury, civil or criminal, whose name is not enrolled upon the list required to be kept by the County Court, if the objection is made, before such person is sworn upon the Jury.

Sec. 2. The nineteenth section of the above recited act, shall be so amended as to read as follows: The Court shall have power to relieve one set of Jurors at any time by causing others to be summoned to supply their places, who shall be liable to serve for such a length of time as the Court may deem proper, and may likewise be discharged, and others again summoned to supply their places in such manner, as the Court may think most convenient and proper, and best calculated to despatch business, and subserve the public interest.

Sec. 3. This act shall go into effect from the time of its passage.  
Approved, March 16, 1848.

## CHAPTER 101.

An Act to require Sheriffs, Clerks of the District Court, and Clerks of the County Court to keep their offices at the County seats of their respective counties.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Sheriffs, Clerks of the District Court, and Clerks of the County Court of the several counties of this State, shall be, and they are hereby required to keep their several offices at the county seats of their respective counties.

Sec. 2. That in all cases, where the said Sheriff, and Clerks do not reside at the county seats of their respective counties, they shall be, and are hereby required, to have deputies in their several offices, residing at said county seats.

Sec. 3. That any Sheriff, Clerk of the District Court, or Clerk of the County Court in this State, who shall fail to comply with the provisions of this act, shall be liable to indictment by the Grand Jury of his county, and on conviction by a Petit Jury of his county, in the District Court, shall be removed from office, by the judgment of said District Court, and shall moreover be liable to any person injured by such failure, for all damages occasioned by such failure.

Approved, March 16, 1848.

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CHAPTER 102.

An Act to be entitled an act, to make valid the acts of John D. Banton, as Clerk of the District Court of the County of Walker.

Whereas, John D. Banton was elected Clerk of the District Court of the county of Walker, on the second Monday in July, 1846; and, whereas, the said John D. Banton, after giving bond, and entering upon the duties of said office, died, without having received a Commission from the Governor of the State, **Therefore,**



Be it enacted by the Legislature of the State of Texas, That all the acts of said John D. Banton or his deputy, as Clerk of the District Court of the county of Walker aforesaid, be, and the same are hereby legalized, and made valid, as though he had received a commission in conformity to law; and that this act be in force from and after its passage.

Approved, March 16, 1848.

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#### CHAPTER 103.

##### An Act to regulate the descent and distribution of Intestates Estates.

Section 1. Be it enacted by the Legislature of the State of Texas, That the estates of suicides shall descend and vest as in cases of natural death. If any person shall be killed by casualty there shall be no forfeiture by reason thereof.

Sec. 2. When any person having title to any estate of inheritance, real, personal or mixed, shall die intestate, as to such estate, and shall leave no surviving husband or wife it shall descend and pass in parcenary to his or her kindred, male and female, in the following course, that is to say: 1st. To his or her children and their descendants, if any there be: 2ndly: If there be no children nor their descendants then to his or her father and mother, in equal portions. But if only the father or mother survive the intestate, then his or her estate shall be divided into two equal portions, one of which shall pass to such survivor, and the other half shall pass to the brothers and sisters of the deceased and to their descendants, or to such of them as there be, but if there be none such, then the whole estate shall be inherited by the surviving father or mother: 3dly. If there be neither father or mother then the whole of such estate shall pass to the brothers and sisters of the intestate and to their descendants, or to such of them as there be: 4thly. If there be none of the kindred aforesaid, then the inheritance shall be divided into two moieties, one of which shall go to the paternal and the other to the maternal kindred, in the following course; that is to say—to the Grand Father and Grand Mother, in equal portions,

but if only one of these be living, then the estate shall be divided into two equal parts, one of which shall go to such survivor, and the other shall go to the descendant or descendants of such deceased Grand Father or Grand Mother: If there be no such descendants, then the whole estate shall be inherited by the surviving Grand Father or Grand Mother: If there be no surviving Grand Father or Grand Mother, then the whole of such estate shall go to their descendants, or to such of them as there be, and so on without end, passing in like manner to the nearest lineal ancestors and their descendants, or to such of them as there be.

Sec. 3. There shall be no distinction in regulating the descent and distribution of intestates estates between property which may have been derived by such intestate, by gift, devise or descent from the father, and that which may have been derived by gift, devise or descent from the mother, and all the estate to which such intestate may have had title, at the time of death, shall descend and vest in the heirs of such person in the same manner as if he or she had been the original purchaser thereof.

Sec. 4. When any person having title to any estate of inheritance, real, personal or mixed shall die intestate as to such estate, and shall leave a surviving husband or wife, the estate of such intestate shall descend and pass as follows: 1st. If the deceased have a child or children or their descendants, the surviving husband or wife shall take one third of the personal estate, not to include slaves, and the balance of such personal estate shall go the child or children of the deceased and their descendants—the surviving husband or wife shall also be entitled to an estate for life, in one third of the lands and slaves of the intestate: with remainder to the child or children of the intestate and their descendants: 2ndly. If the deceased have no child or children, or their descendants, then the surviving husband or wife shall be entitled to all the personal estate of the intestate, not to include slaves, and to one half of the lands and slaves of the intestate, without remainder to any person or persons, and the other half shall pass and be inherited according to the rules of descent and distribution, as prescribed in the foregoing sections of this act, provided, however, that if the deceased have neither surviving father or mother, nor surviving brothers and sisters or their descendants, then the surviving hus-

band or wife shall be entitled to the whole of the estate of such intestate, real, personal and mixed.

Sec. 5. No right of inheritance shall accrue to any person whatsoever, other than to children of the intestate, unless they be in being, and capable in law to take as heirs at the time of the intestates death.

Sec. 6. In cases before mentioned, where the inheritance is directed to pass to the collateral kindred of the intestate, if part of such collaterals be of the whole blood, and the other part of the half blood only, of the intestate, those of the half blood shall inherit only half so much as those of the whole blood, but if all be of the half blood, then they shall have whole portions.

Sec. 7. Where the children of the intestate's brothers and sisters, uncles and aunts, or any other relations of the deceased standing in the same degree, come into the partition, they shall take "per capita," that is to say by persons, and where a part of them being dead, and a part living, the issue of those dead have right to partition, such issue shall take "per stirpes" or by stocks, that is to say the shares of their deceased parents.

Sec. 8. Where any of the children of a person dying intestate, or their issue, shall have received from such intestate in his life time, any real, personal or mixed estate, by way of advancement, and shall choose to come into the partition and distribution of the estate with the other parceners and distributees, such advancement, of real, personal and mixed estate, shall be brought into Hotch Pot with the whole estate, real, personal or mixed, descended, and such party returning such advancement, as aforesaid, shall thereupon, be entitled to his, her or their proper portion of the whole estate so descended, real, personal and mixed, and, provided, that it shall be sufficient to account for the property so brought into Hotch pot at the time it was advanced, and when money or negroes shall have been advanced, the interest of the one, or the increase of the other, need not be brought into Hotch pot.

Sec. 9. In making title to land by descent, it shall be no bar to a party, that any ancestor through whom he derives his descent from the intestate, is or hath been an alien, and every alien, to whom any land may be devised or may descend, shall have nine years to become a citizen of the State, and take possession of such land, or shall have nine years to sell the same.

before it shall be declared forfeited or shall escheat to the Government.

Sec. 10. Where a man having by a woman a child or children, shall afterwards intermarry with such women, such child or children if recognized by him, shall thereby be legitimated and made capable of inheriting his estate. The issue also in marriages deemed null in law, shall nevertheless be legitimate.

Sec. 11. Bastards shall be capable of inheriting from and through their mothers and of transmitting estates, and shall also be entitled to distributive shares of the personal estates of any of their kindred on the part of their mothers, in like manner as if they had been lawfully begotten of such mothers.

Sec. 12. When two or more persons hold an estate, real, personal or mixed jointly, and one joint tenant dies before severance, his interest in said joint estate shall not survive to the remaining joint tenant or joint tenants, but shall descend to and be vested in the heirs or legal representatives of such deceased joint tenant, in the same manner as if his interest had been severed and ascertained.

Sec. 13. This act shall not be construed to alter or change in any manner, the mode now pointed out by law, for distributing the common property of the husband and wife, upon the death of one of them.

Sec. 14. An act to regulate the descent and distribution of intestates estates approved 28th January 1840; and, an act amendatory of said act passed 17th January 1842, are hereby repealed, and this act shall go into effect from the time of its passage.

Approved, March 18, 1848.

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## CHAPTER 104.

Joint Resolution, on the "Proviso," Slavery, the Tariff, and the War against Mexico.

Section 1. Be it resolved by the Legislature of the State of Texas, That any attempt on the part of the Congress of the Uni-

ted States to interfere with the domestic and internal policy of the States or Territories, is unwarranted by the Constitution of the United States, and in violation of the rights of the States. The "Proviso," if submitted to, would prevent the slaveholding States from enjoying the full benefits of any territory which may be hereafter acquired, by the United States. The Constitution of the United States recognizes slavery, as one of our domestic institutions, and we acknowledge no right to abolish it, but that which belongs to the slaveholding States themselves. We will not submit to any law, which prohibits the citizens of the Southern States, from taking their property to any territory which may be acquired from Mexico. We are willing to submit to the compromises of the Constitution, but we will never submit to a usurpation of power which robs us of our rights.

Resolved further, That we deny the right of the Congress of the United States, to pass any law prohibiting any State, that may hereafter be admitted into the Union, from coming in, either with or without slavery, as the popular voice of such State may determine. This principle we will not yield.

Resolved further, That the just and equitable mode of raising revenue, is to levy a tariff on the advalorem principle, for purposes of revenue, as contra distinguished from the protective policy. That we believe that the tariff of 1846, will yield more revenue to the United States, than could be derived from the tariff of 1842, and that the former is at the same time, less burdensome to the people than the latter would be; and believing it to be a cardinal principle of government, that the burdens should be equally borne by all classes of the community, we hope that the general principles of the tariff of 1846, will not be altered. We are willing to pay for "Revenue," but not for "Protection."

Resolved further, That we consider the war with Mexico, as necessary to the vindication of our national honor, as a war which was brought on by Mexico, by making an attack upon the army of the United States, at a time when the Mexican government expected to destroy that gallant band—who have added fresh lustre to the American name. After the bad faith, which has characterized the Mexicans, we have nothing to hope for, but that justice which we must compel them to grant by force of arms. We recommend, therefore, a vigorous prosecution of the war, until we obtain full indemnity for the wrongs and injuries done us. If it be necessary to appropriate

some of the most valuable portions of Mexican Territory, we recommend that it be done. We should never give up California. We should secure a communication between the Atlantic and Pacific oceans, across the Isthmus, for all time to come. We should take possession of the Mexican ports, collect her revenues, and levy a tax upon all the property of the nation, to support our armies. As long as Mexico compels us to keep an army there, we should make her support it.

Resolved further, That our Senators be instructed, and our Representatives in Congress be requested, to support the principles set forth in the foregoing resolutions, and to use all just and Constitutional means to resist encroachments upon the rights of the slaveholding States.

, Resolved further, That the Governor be requested to forward a copy of these Resolutions to the President of the United States, the Governors of each of the States in the Union, and to our Senators and Representatives in Congress, under the seal of the State, and with his signature of approval.

Approved, March 18, 1848.

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#### CHAPTER 105.

An Act to define the times for holding the District Courts in the fifth, sixth, and eighth Judicial Districts.

Section 1. Be it enacted by the Legislature of the State of Texas, That the District Courts for the fifth, sixth and eighth Judicial Districts, shall be held at the times herein specified, to wit: For the fifth District.

In the County of Sabine, on the first Mondays in March and September, and may continue two weeks.

In the County of Shelby, on the third Mondays in March and September, and may continue two weeks.

In the County of San Augustine, on the first Mondays in April and October, and may continue three weeks.

In Jasper County, on the fourth Mondays in April and October, and may continue one week.

In Newton County, on the first Mondays after the fourth Mondays in April and October, and may continue one week.

In Angelina County, on the second Mondays after the fourth Mondays in April and October, and may continue one week.

In Nacogdoches County, on the third Mondays after the fourth Mondays in April and October, and may continue until the business shall be disposed of.

For the sixth District: In Cass County, on the third Mondays in March and September, and may continue two weeks.

In Upshur County, on the third Mondays after the third Mondays in March and September, and may continue one week.

In Smith County, on the fourth Mondays after the third Mondays in March and September, and may continue two weeks.

In Cherokee County, on the sixth Mondays after the third Mondays in March and September, and may continue two weeks.

In Rusk County, on the eighth Mondays after the third Mondays in March and September, and may continue three weeks.

In Panola County, on the eleventh Mondays after the third Mondays in March and September, and may continue two weeks.

In Harrison County, on the thirteenth Mondays after the third Mondays in March and September, and may continue until the business shall be finished.

In the eighth District: In Bowie County, on the first Mondays in March and September, and may continue one week.

In Titus County, on the second Mondays in March and September, and may continue one week.

In Hopkins County, on the third Mondays in March and September, and may continue one week.

In Hunt County, on the fourth Mondays in March and September, and may continue one week.

In Fannin County, on the first Mondays in April and October, and may continue two weeks.

In Lamar County, on the third Mondays in April and October, and may continue two weeks.

In Red River County, on the first Mondays after the fourth Mondays in April and October, and may continue three weeks.

Approved, March 18. 1848.

## CHAPTER 106.

An Act to prescribe the time of holding the Courts in the second Judicial District of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That the terms of the District Court in the second Judicial District, shall be held in each county in the District, twice in each year, as follows:

In the County of Fayette, on the first Monday in March and the third Monday in September, and may continue in session two weeks.

In the County of Bastrop, on the second Monday after the first Monday in March, and the second Monday after the third Monday in September, and may continue in session one week.

In the County of Williamson, on the third Monday after the first Monday in March and the third Monday after the third Monday in September, and may continue in session one week.

In the County of Travis on the fourth Monday after the first Monday in March, and the fourth Monday after the third Monday in September, and may continue in session two weeks.

In the County of Caldwell, on the sixth Monday after the first Monday in March, and the sixth Monday after the third Monday in September, and may continue in session one week.

In the County of Hays, on the seventh Monday after the first Monday in March and the seventh Monday after the third Monday in September, and may continue in session one week.

In the County of Guadalupe, on the eighth Monday after the first Monday in March, and the eighth Monday after the third Monday in September, and may continue in session one week.

In the County of Comal, on the ninth Monday after the first Monday in March, and the ninth Monday after the third Monday in September, and may continue in session one week.

In the County of Gillespie, on the tenth Monday after the first Monday in March, and the tenth Monday after the third Monday in September, and may continue in session two weeks.

Sec. 2. Be it further enacted, That all process returnable to and cases triable at the regular terms of the District Courts of the second Judicial District, as now provided for by law, shall be returnable to, and triable at the regular terms herein prescribed, and that all laws and parts of laws conflicting with



the provisions of this act, be and the same are hereby repealed, and that this act take effect from and after the first Monday of August next.

Approved, March 18, 1848.

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CHAPTER 107.

An Act, Supplementary to an act entitled an act to regulate the Public Printing, approved March 8, 1848.

Whereas, by one of the provisions of the above recited act, the Secretary of State is required to furnish the Public Printer, with a copy of the laws, within six days after their passage, and whereas, without further assistance, it will be impossible for him to comply with said provision; Therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the Secretary of State be authorized to employ the assistance necessary to enable him to furnish a copy of the laws, within the time prescribed by the above recited act: Provided, that the compensation to be allowed therefor, shall not exceed that allowed by the said act for copying the Journals of both Houses.

Sec. 2. Be it further enacted, That this act take effect, and be in force from and after its passage.

Approved, March 18, 1848.

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CHAPTER 108.

An Act appropriating certain fines and forfeitures.

Section 1. Be it enacted by the Legislature of the State of Texas, That all monies collected as penalties, fines and forfeitures in behalf of the State, shall be paid into the County Treasury, of the County, in which such fines and penalties may

be imposed, or forfeitures take place, to be under the control of the County Court.

Sec. 2. Be it further enacted, That when the Sheriff or other officer shall collect any such monies, he shall pay them into the County Treasurer, and the County Treasurer shall pay out the same in the manner directed by the County Court.

Approved, March 18, 1848.

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## CHAPTER 109.

### An Act to prevent burning the woods and prairies.

Section 1. Be it enacted by the Legislature of the State of Texas, That it shall not be lawful for any person or persons, to wilfully burn or cause to be burned, any wood lands or prairie, not his own, within any county of this State, at any time, between the first day of the month of July in each and every year, and the fifteenth day of February in the succeeding year.

Sec. 2. Be it further enacted, That when any person shall be charged, on oath made before any Justice of the Peace of the county, in which such offence is committed, with a violation of the provisions of the first section of this act, it shall be the duty of such Justice or any other Justice of the Peace of the county, to cause such person to be arrested and brought before him by warrant under his hand, to be executed by any constable of the county, or other proper officer, and if upon a full investigation, such Justice shall be satisfied, that such person has wilfully violated the provisions of this act, it shall be the duty of such Justice, to fine any such person not less than ten dollars, nor more than fifty dollars, which shall go to the use of the county in which such offence was committed, and in default of payment thereof, such Justice shall commit such person to the County Jail, until such fine and costs are paid, provided, however, that in all such cases, if the accused shall demand a trial by jury, such Justice shall forthwith summon a Jury of six men, as in other cases, and the Jury shall try the cause, and assess the fine as aforesaid.

Sec. 3. Be it further enacted, That this act shall not be so

construed, as to release any person from liability, in a civil suit for damages occasioned by burning.

Approved, March 18, 1848.

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CHAPTER 110.

Joint Resolution instructing our Senators and requesting our Representatives in Congress to use their efforts to have a law passed to extend the jurisdiction of Texas over one half of Sabine Pass, Lake and River.

Section 1. Be it resolved by the Legislature of the State of Texas, That our Senators be instructed and our Representatives in Congress be requested to use their efforts to have a law passed by Congress extending the jurisdiction of Texas over one half of the waters of Sabine Lake, Sabine Pass and Sabine River up to the 32d deg. of north latitude.

Sec. 2. Be it further resolved, That the Governor of this State be required to transmit to each of our Senators and Representatives in Congress a copy of the foregoing Joint Resolution.

Approved, March 18, 1848.

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CHAPTER 111.

An Act providing for the payment of Jurors.

Section 1. Be it enacted by the Legislature of the State of Texas, That Jurors, shall each be entitled to one dollar and twenty five cents, for each day, he shall attend the Court, and all necessary expenses of ferriage.

Sec. 2. That all tax fees collected on suits, shall be applied to the payment of Jurors.

Sec. 3. That this act shall take effect from and after the first day of August next.

Approved, March 18. 1848.

## CHAPTER 112.

An Act to establish the method of trying the right of property levied on under writs of Execution, Sequestration and Attachment, where the same is claimed by a person not a party to such writs.

Section 1. Be it enacted by the Legislature of the State of Texas, That whenever any Sheriff or other lawful officer shall levy a writ of execution, sequestration or attachment, upon any personal property, and such property or any part thereof, shall be claimed by any person who is not a party to such writ, such person or his agent may make oath in writing, before some Justice of the Peace, of the county where the levy was made, that such claim is made in good faith, and present such oath in writing, to the officer who made such levy, and may also execute and deliver to the officer who made such levy, his bond, with two or more good and sufficient sureties, to be approved of by such officer, payable, to the plaintiff in such writ, for an amount equal to double the value of the property so claimed, to be assessed by such officer, conditioned that the party making such claim, in case he fails to establish his right to such property, shall return the same to the officer making such levy or his successor, and shall also pay to the plaintiff in such writ, all damages that may be awarded against him, by the Jury, on the trial of the right to such property; whereupon it shall be the duty of the officer, receiving such oath and bond, to deliver such property, so claimed, to the person so claiming it.

Sec. 2. That whenever any person shall claim property: and shall make the oath, and give the bond, as provided for in the first section of this act, if the writ, under which such levy was made, was issued by any Justice of the Peace or Court of the county where such levy was made, the Sheriff or other officer, receiving such oath and bond, shall endorse on the writ, that such claim has been made, and oath and bond given, stating by whom, and shall also endorse on such bond, the value of the property, as assessed by himself, and shall forthwith return such bond and oath to the Justice or the Clerk of the Court from which the said writ issued; but if the writ, under which such levy was made, was issued by any Justice of the Peace or Court of another county, than that in which such levy was

made, then the Sheriff or other officer, receiving such oath and bond, shall endorse on such bond, the value of the property as assessed by himself, and shall forthwith return such bond and oath, with a copy of the writ, to some Justice of the Peace of his county, if the writ was issued by a Justice, or to the District Court of his county, if the writ was issued by any other authority than a Justice of the Peace; and he shall also endorse on the writ, that such claim has been made, and oath and bond given, stating by whom, and to what Justice or Court, the bond has been returned, and at what time it was so returned, and shall forthwith return such writ to the Justice or Court from which it issued.

Sec. 3. That whenever any oath and bond, for the trial of the right of property, shall be returned to any Court other than a Justice's Court, as provided for in the second section of this act, it shall be the duty of the Clerk of such Court, to docket the same in the name of the plaintiff in the writ, as the plaintiff, and the claimant of the property as defendant, and at the first term of the Court thereafter, if both parties appear, the Court shall direct an issue to be made up between the parties and tried by a Jury as in other cases, but if the plaintiff appears and the defendant fails to appear, or neglects or refuses to join issue under the directions of the Court, within the time prescribed for pleading, the plaintiff shall have judgment by default as in other cases. If the plaintiff does not appear at the said first term, the case shall be continued to the next term, when if he appears, the like proceedings may be had as at the said first term, but if he does not then appear on or before the first day of said term, he shall be non suited, provided that in all such cases, if the property so claimed, was taken from the possession of the claimant, then the burden of proof shall be upon the plaintiff in the original writ of execution, sequestration or attachment; but if the property so claimed, was taken from the possession of any other person, than such claimant, then the burden of proof shall be upon such claimant.

Sec. 4. That whenever any oath and bond for the trial of the right of property, shall be returned, under the provisions of the second section of this act to any Justice of the Peace, the plaintiff in the writ, may, at any time, apply to such Justice for a citation against such claimant, and on the return thereof executed, a trial of the right of such property shall be had before such Justice in like manner as other trials are had before

Justices of the Peace, but if the property was taken from the possession of the claimant, the burden of proof shall be on the plaintiff, and if it was taken from the possession of the defendant in such writ, or any other person than the claimant, the burden of proof shall be on the claimant.

Sec. 5. That in all trials of the right of property under the provisions of this act, if the claimant shall fail to establish his right to the property, the Court or Justice trying the same shall give judgment against all the obligors in the claimants bond for ten per cent damages, on the value of the property claimed, unless such value is greater, than the amount claimed under the writ, by virtue of which such property was levied, in which case, such damages shall be on the amount claimed under said writ.

Sec. 6. That in all trials of the right of property, under the provisions of this act, in any County other than that in which the writ issued under which the levy was made, the copy of the writ, required to be returned by the Sheriff or other officer, making the levy, shall be received in evidence, in like manner as the original could be.

Sec. 7. That in all cases, when any claimant of property, under the provisions of this act, shall fail to establish his right thereto, and judgment shall be rendered against him if he shall fail to return such property in as good condition as when he received it, to the officer from whose possession he received it, or his successor, within ten days after the rendition of such judgment, such officer or his successor, shall certify such failure to the Court or Justice by which such judgment was rendered, whereupon it shall be the duty of the Justice or Clerk, having the custody of such bond, to endorse thereon that it has been forfeited, when such bond shall have the force and effect of a judgment, against all the obligors for the value of such property, with the legal interest thereon from its date, upon which execution may issue as on other judgments.

Sec. 8. That a claim made to property, under the provisions of this act, shall operate as a release, by the claimant, of all damages against the Sheriff or other officer who levied on such property.

Sec. 9. That proceedings for the trial of the right of property under the provisions of this act shall in no case prevent the plaintiff in the writ from having a levy made upon other property of the defendant than that levied on and claimed if it can be found.

Sec. 10. That "an act to establish the method of trying the right of property levied on by execution, when the property is claimed by any person not a party to such execution" approved, February 5th, 1840, shall be and is hereby repealed.

Approved, March 18, 1848.

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CHAPTER 113.

An Act to repeal the fourth section of an act requiring the Commissioner of the General Land Office to issue Patents upon unconditional headright certificates for land, approved, May 12th, 1846.

Section 1. Be it enacted by the Legislature of the State of Texas, That the fourth section of an act requiring the Commissioner of the General Land Office to issue Patents upon unconditional headright certificates for land, approved 12th May, 1846, be and the same is hereby repealed, and that this act take effect from and after its passage.

Approved, March 18, 1848.

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CHAPTER 114.

An Act to amend an act supplementary to an act to detect fraudulent land certificates and to provide for issuing Patents to legal claimants, passed at the fifth Congress of the Republic of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That all certificates heretofore, or that may be hereafter issued by the Supreme or District Courts, in accordance with the provisions of an act passed by the fifth Congress of the Republic of Texas, shall be as valid and legal as if issued by any other competent authority.

Sec. 2. Be it further enacted, That the Commissioner of the General Land Office be, and is hereby required to issue patents, upon all surveys made by authority of such certificates, and that a certified copy of the decision of such Court or Courts, or either of them, be full authority, and sufficient evidence, for the same, provided that the survey is correct and made according to law.

Approved, March 18, 1848.

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#### CHAPTER 115.

#### An Act for the regulations of Pilots at the mouth of the Brazos River.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Governor be and he is hereby authorized and required to appoint by and with the advice and consent of the Senate, one or more competent persons to act as Pilots at the mouth of the Brazos river in this State, and the person or persons so appointed shall hold their offices for two years and until their successors are appointed and qualified in the manner provided for in this act.

Sec. 2. That before any person appointed under the provisions of this act shall enter upon the discharge of his duties, he shall execute and deliver to the Chief Justice of Brazoria county a bond with two or more good and sufficient sureties, to be approved by said Chief Justice, and payable to the Governor of the State in the sum of five thousand dollars, conditioned for the faithful performance of the duties of his office, and shall also take and subscribe the oath of office prescribed by the Constitution, which oath shall be endorsed on or annexed to said bond with the certificate of the officer administering the same. Said bond and oath shall be recorded in the office of the Clerk of the County Court, and deposited therein, and said bond shall not be void on the first recovery, but may be sued on from time to time in the name of any person or persons injured by a breach thereof, until the whole penalty shall have been recovered.



Sec. 3. That whenever a vacancy shall happen in either of said offices during the recess of the Senate, the Governor shall have power to make an appointment to fill such vacancy, and the person so appointed shall continue to perform the duties of his office until a successor is appointed and qualified in the manner provided for original appointments.

Sec. 4. That the said Pilots shall be entitled to three dollars for each foot of water that any vessel may draw at the time of piloting the same, and whenever a vessel shall decline the service of a Pilot offered outside the bar and shall enter said river without the aid of one, the Pilot who first so offered his services, shall be entitled to one half of the above amount, and any vessel which after being brought in by a Pilot shall go out without employing one shall be liable to the payment of half pilotage to the pilot who brought her in: provided, however, that all vessels of thirty tons burthen and under shall be free from any charge for pilotage unless for actual service.

Sec. 5. That the consignees of any vessel shall be held liable and responsible for the pilotage of said vessel.

Sec. 6. That if any person not appointed a Pilot or deputy Pilot, shall pilot any ship or vessel out of, or into said river when a Pilot or deputy Pilot has offered such service, the person so piloting shall be liable to pay to the Pilot or deputy Pilot who offered such service full pilotage for such vessel, to be recovered by suit before any Justice of the Peace, of the county.

Sec. 7. That each Pilot appointed under the provisions of this act may by writing under his hand appoint a deputy Pilot to discharge his duties, but he shall be responsible for all official acts of such deputy in like manner as if such acts were done by himself.

Approved, March 18, 1848.

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## CHAPTER 116.

An Act supplementary to an act entitled "an act to establish the Judicial Districts of the District Courts."

Section 1. Be it enacted by the Legislature of the State of Texas, That so much of the act to which this is a supplement,

as relates to the ninth Judicial District, take effect and be in force from and after the passage of this act, and that this act be in force from and after its passage.

Approved, March 18, 1848.

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#### CHAPTER 117.

An Act to change the name of Ralph William Peacock to John Bowen.

Whereas, Ralph William Peacock, a native of Philadelphia, in the State of Pennsylvania, at present a citizen of San Antonio, Bexar county, in the State of Texas, is testamentary heir by the will of his half brother John Bowen, deceased, to "Bowen Hall Estate," in the Island of Jamaica, under certain conditions, whereby it is necessary that the name of said R. W. Peacock, be changed to John Bowen; Therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the name of Ralph William Peacock, be and is hereby changed to John Bowen.

Sec. 2. Be it further enacted, That this act take effect from and after its passage.

Approved, March 18, 1848.

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#### CHAPTER 118.

An Act to secure to the Colonists of Fisher and Miller's Colony the lands to which they may be entitled.

Section 1. Be it enacted by the Legislature of the State of Texas, That every colonist, or the heirs or administrators of such colonists introduced into Texas by the German emigration Company, under and by virtue of the colonization contract of Henry F. Fisher and Burchard Miller with the President of

the late Republic of Texas, shall receive the quantity of land to which such colonist may be entitled, to wit: six hundred and forty acres for each head of a family; and three hundred and twenty for each single man over the age of seventeen years; provided that nothing contained in this bill shall be construed to place the contractors of said Colony in a better condition with regard to the State of Texas than they would be in if this bill had not been passed.

Sec. 2. That the Governor of this State shall appoint a Commissioner, whose duty it shall be to hear proof and determine what colonists have been introduced into Texas by said company, in virtue of said colonization contract, and said Commissioner shall issue to the parties entitled to the same, or the heirs or administrators of such parties, a certificate for their proper quantity of land; which certificate shall contain the condition that, before patent can issue on the same, the grantee of such certificate shall, within two years from the date thereof, settle within the limits of the colony of the said Fisher and Miller; and when said condition is complied with, the party shall be entitled to patent for his land in such manner as may hereafter be provided by law.

Sec. 3. That the grantees of certificates issued in conformity with this act shall select their land in manner herein set forth, to wit: the party in interest shall designate to the Commissioner issuing the certificate as aforesaid, the tract of land such party may wish within the colony grant, as defined by the said colonization contract; and the Commissioner shall attach to the certificate a description of the section thus selected; provided that in the selection of the lands regard must be had to the provisions of the aforesaid colonization contract in reference to the alternate sections.

Sec. 4. That it shall be the duty of the District Surveyor of Bexar District to furnish the Commissioner of the General Land Office with a map of all surveys within the aforesaid colony limits; and the Commissioner of the General Land Office shall furnish a similar map to the Commissioner appointed by virtue of this act; and upon these maps the land selected as provided in the preceding section shall be noted.

Sec. 5. That it shall be the duty of the Commissioner appointed in virtue of this act to send to the Commissioner of the General Land Office, a monthly list, under oath, containing a description of certificates issued in compliance with this act:

and he shall also keep a record in a well bound book, showing the quantity of land for which each certificate issued, the names of the parties obtaining the same, and the names of the witnesses who made the proof; and said Commissioner shall deposit said record book in the General Land Office at the expiration of the time limited in this act for granting certificates.

Sec. 6. That to entitle any colonist to the benefits of this act, such colonist shall take the following oath; "I, (A. B.) do solemnly swear that I was introduced into Texas by the German emigration company in virtue of the colonization contract of Fisher and Miller with the President of the late Republic of Texas, and before the first day of September, A. D. 1847;" and shall also prove the facts in said affidavit by at least two disinterested witnesses; and in case the applicants be heirs or administrators, they shall not be required to take the aforesaid affidavit, but shall be obliged to prove by two witnesses that the colonist whom they represent had emigrated to Texas in manner and within the time set forth in the foregoing affidavit.

Sec. 7. That the colonist, their heirs or administrators, are hereby allowed one year from the first day of May next, and no longer, in which to obtain their certificates in accordance with this act.

Sec. 8. That the Commissioner appointed by virtue of this act, before he enters on the duties of his office shall give bond in the sum of twenty thousand dollars with security to be approved by the District Judge of the second Judicial District; which bond shall be drawn in favor of the Governor of the State and his successors in office, and shall be conditioned that the Commissioner shall faithfully and impartially discharge the duties imposed on him by this act; and shall also take an affidavit faithfully and impartially to discharge the duties which this act imposes on him, to the best of his skill and ability; which affidavit shall be endorsed on the said bond, and with the same shall be deposited in the office of the Secretary of State.

Sec. 9. That certificates issued in conformity with this act, and locations made in virtue of the same, shall be subject to the inspection and approval of the Attorney General, and shall have no force in law unless by him approved.

Sec. 10. That the Commissioner appointed in compliance with this act, shall receive two dollars for each certificate is-

sued, to be paid by the party receiving the same; and said Commissioner shall do and transact the business and duties required of him at the town of Fredericksburg in the county of Gillespie, and in the City of New Braunfels, Comal County.

Sec. 11. That this act take effect and be in force from and after the first day of May, A. D. 1848.

Passed, March 20, 1848.

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CHAPTER 119.

An Act to create the County of Van Zandt..

Section 1. Be it enacted by the Legislature of the State of Texas, That all the territory heretofore comprised within the County of Henderson, and not now comprised within the limits of the counties of Henderson and Kaufman, be, and the same is hereby constituted and made a new county to be called Van Zandt.

Sec. 2. Be it further enacted, That said county shall be organized in conformity with an act for the organization of the several counties in the State, approved 11th April, A. D. 1846.

Sec. 3. Be it further enacted, That Jordan's Saline in said county shall be the county seat of said county, until otherwise provided for by law; and that this act take effect from and after its passage.

Approved, March 20, 1848.

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CHAPTER 120.

Joint Resolution. Whereas it is believed that John C. Watrous, Judge of the United States District Court for the District of Texas, has while seeking that important position, given legal opinions in causes and questions to be litigated hereafter, in which the interests of individuals and of the

State, are immensely involved; whereby it is believed he has disqualified the Court in which he presides, from trying such questions and causes; thereby rendering it necessary, to transfer an indefinite and unknown number of suits hereafter to be commenced, to Courts out of the State for trial; and whereas it is also believed that the said John C. Watrous, has while in office aided and assisted certain individuals, if not directly interested himself, in an attempt to fasten upon this State, one of the most stupendous frauds ever practiced upon any country or any people; the effect of which would be to rob Texas, of millions of acres of her public domain, her only hope or resource, for the payment of her public debt; and whereas, his conduct in Court and elsewhere, in derogation of his duty as a Judge, has been marked by such prejudice and injustice toward the rights of the State, and divers of its citizens, as to show that he does not deserve the high station he occupies; Therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That the said John C. Watrous be and he is hereby requested, in behalf of the people of the State, to resign his office of Judge of said United States Court for the District of Texas.

Sec. 2. Be it further resolved, That the Governor, forward the said J. C. Watrous, under the seal of the State, a copy of the foregoing preamble and resolution, also a copy to each of our Senators and Representatives in the Congress of the United States.

Approved, March 20, 1848.

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## CHAPTER 121.

Joint Resolution appropriating one hundred dollars for the purpose of procuring a map of Shelby County..

Be it resolved by the Legislature of the State of Texas, That the sum of one hundred dollars, be, and the same is hereby appropriated for the purpose of procuring a map of

Shelby county, and that this Joint Resolution take effect from and after its passage.

Approved, March 20, 1848.

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CHAPTER 122.

An Act to raise a revenue by taxation.

Section 1. Be it enacted by the Legislature of the State of Texas, That there shall be levied and collected, for the use of the State, a direct ad valorem tax of twenty cents upon each hundred dollars value of all property, real and personal, (except such property as may be) excepted by law from taxation.

Sec. 2. That there shall be assessed and collected of every free male person between the ages of twenty one and fifty five years, citizens of this State, (idiots and persons non compos mentis excepted) a poll tax of one dollar each.

Sec. 3. That there shall be assessed and collected of each person, firm or public corporation, having money loaned at interest, a tax at the rate of twenty cents on each hundred dollars so loaned, and any person, firm or public corporation having money loaned at interest who shall fail or refuse to give in the same for taxation, shall upon conviction before any Court having competent jurisdiction, forfeit the interest on such money loaned at interest, and not given in for taxation to the use of the informer; that each and every person or firm occupied in the sale of goods, wares, merchandize, vinous and spiritous liquors when sold in quantities of a quart or more, shall pay a tax of twenty cents on each hundred dollars value of such goods, wares and merchandize, spirituous and vinous liquors purchased for sale, or received for sale as agent or auctioneer by such person or firm, and it shall be the duty of each assessor and collector in this State, once in every three months, or oftener, to call upon such person or firm, so occupied in his county for an account of such purchases under oath, and any person when so called on who shall fail or refuse to furnish such assessor and collector with an account of all such purchases as have been made by him during the term for which the assess-

ment is to be made, shall be liable to a penalty of fifty dollars for each failure or neglect, to be recovered on the information of the assessor and collector, before any Justice of the Peace of the proper county, by a suit in favor of the State, and the specific tax levied by virtue of this section shall not be construed to exempt the said goods, wares and merchandize from the ad valorem tax levied by this act.

Sec. 4. That there shall be assessed and collected of each person the proprietor of a company, within the limits of this State pursuing the occupation of exhibiting, or causing to be exhibited for pay or emolument, any theatre or theatrical amusements, an annual direct tax of one hundred dollars for each and every such establishment; of each and every person pursuing the occupation of exhibiting any museum, menagerie, wax works, feats of activity, slight of hand, or any diversion of this character under any name whatever, an annual direct tax of twenty five dollars, in each and every county in which the same may be exhibited.

Sec. 5. That there shall be assessed and collected of each and every person, or firm occupied in the retail of vinous or spirituous liquors of any kind in quantities less than one quart, an annual direct tax of fifty dollars for each and every such establishment; of each and every person pursuing the occupation of a hawker and peddler an annual direct tax of ten dollars in each and every county in which they may pursue such occupation.

Sec. 6. That there shall be assessed and collected of each and every person, or firm, keeping a billiard table, an annual direct tax of fifty dollars, for each and every table so kept; of each and every person, or firm, keeping a nine, or ten pin alley, an annual direct tax of twenty dollars for each and every alley; of each and every person, or firm, occupied in keeping any cook shop, restaurat, or eating house for pay or emolument, an annual direct tax of fifteen dollars, for each and every such establishment; of each and every person, or firm, occupied in keeping a race track, an annual direct tax of twenty five dollars; of each and every person, or firm, pursuing the occupation of a real estate broker, ship broker, money broker, and merchandize, and cotton broker, or any commission business, an annual direct tax of twenty dollars, for each and every such establishment; and of each and every person or firm, occupied



in the business of auctioneering an annual direct tax of twenty five dollars.

Sec. 7. That the taxes assessed in pursuance of this act, shall be a lien upon all property, real and personal, belonging to the person or persons so assessed, and upon whom the same be imposed; and upon all property assessed where the owner is unknown, and shall continue to bind such property, and be preferred to all other incumbrances, until the taxes of such person or persons shall have been fully settled and paid.

Sec. 8. That an act entitled an act to raise a revenue by direct taxation, approved 28th April, A. D. 1845, and all other laws and parts of laws conflicting with this act (except as to the release of taxes heretofore assessed and now due) be, and the same are hereby repealed, and that this act be in force and take effect from and after its passage.

Approved, March 20, 1848.

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## CHAPTER 123.

An Act to give to each Corporate County in this State, its own County Surveyor. Map and Records.

Section 1. Be it enacted by the Legislature of the State of Texas, That from and after the passage of this act, the County Court of each county in this State may, if the Court deem it expedient, employ a competent Surveyor, who, in connexion with the Surveyors to be appointed by adjoining counties or alone, shall proceed to run and plainly to mark the lines of their respective counties according to the law creating each county; and said Surveyor or Surveyors shall ascertain and note the connexion of each corner of any county **so run with some known corner of a survey nearest to any corner of any county so established**; provided that the running of all county lines under the provisions of this act shall be regulated by and done in conformity with the provisions of an act approved May 12th, A. D. 1846, "regulating the manner of running county lines;" and further provided, that the provisions of this act shall only extend to such new counties as have not heretofore been

entitled to a separate county Surveyors office, and to such counties as may adjoin them and be interested in the running of mutual county boundaries.

Sec. 2. Be it further enacted, That immediately after the completion of the survey of any county as contemplated by this act, it shall be the duty of the County Court of the county so surveyed to appoint a suitable draughtsman, who shall proceed to the office of the District Surveyor of the District from which said county may be taken, or if parts of said county be taken from different Districts, then he shall proceed to the District Surveyors office of each District from which a part of said county may have been taken, and take two correct copies of the map of said county, one of which shall be on good tracing paper, and both of which as soon as completed shall be deposited in the office of the Clerk of the County Court of the County for which said maps may have been made, with the certificate of the District Surveyor to each map if the county be wholly taken from one District, or if taken from more Districts than one, then each District Surveyor shall certify on each map that the part taken from his own District is a true and correct copy of the part of his District represented on said map, and any County Court receiving maps as provided by this act shall immediately transmit one copy of said map under the seal of the County Court to the Commissioner of the General Land office together with a properly authenticated copy of the field notes of the survey of the county boundaries.

Sec. 3. Be it further enacted, That it shall be the duty of the County Courts of the several counties that may avail themselves of the benefits of this act; at their first session after the receipt of this act, or as soon thereafter as they can, to appoint some competent person, whose duty it shall be, to proceed forthwith to the office or offices of the District Surveyor or Surveyors of the District or Districts in which their respective counties may be situated, and make a true and correct copy of all the records in any District Surveyor's office, of surveys of land situated in the county for which he may have been appointed to take a transcript of records: Provided, that after said transcript of records shall have been made out, it shall be the duty of the District Surveyor or Surveyors of the District or Districts and of the County Clerk or Clerks of the county or counties in which any of said District Surveyor's offices may be situated carefully to examine such transcript of records

and compare the same with the original records, and when found to be correct, the District Surveyor shall certify in said record book, at the foot of the last record over his own proper signature, and the Clerk of the County Court shall certify under his seal of office, that said transcript is a true and correct copy of the original records in the District Surveyor's office; and further provided, that said transcript of records so certified, shall answer all the purposes, and have the same force and effect in law, that the originals could have.

Sec. 4. Be it further enacted, That as soon as the County Court of any county entitled to the provisions of this act shall have complied with the foregoing provisions of this act, the Chief Justice of said county, shall forthwith order an election for a County Surveyor for said County by the qualified electors of the county, giving notice of thirty days of said election, and county Surveyors so elected, shall hold their offices until the next succeeding general election for county offices, and shall thereafter be elected every two years by the qualified electors of these respective counties.

Sec. 5. Be it further enacted, That whenever any county shall have complied with the foregoing provisions of this act, it shall be a separate Land District, and the County Surveyor authorized to be elected by this act shall be qualified and give bond in the same manner, form and amount, and shall do and perform all the duties, and be governed by the same laws that regulate the qualifications and duties of District Surveyors.

Sec. 6. Be it further enacted, That the transcript of records and maps, together with the examination of the same, shall be paid for by the County, for the benefit of which they are made, allowing eight cents for every hundred words in copying said records: and three dollars per day, for each day the draughtsman may be actually and necessarily engaged in copying maps, as provided in this act; and Clerks and District Surveyors for examining and certifying transcripts of records, as required by this act, shall have three dollars per day, provided, that the land district composed of the county of San Patricio and Nueces be exempted from the provisions of this act.

Approved, March 20, 1848.

## CHAPTER 124.

## An Act regulating Marks and Brands.

Section 1. Be it enacted by the Legislature of the State of Texas, That every person in this State who has cattle, hogs, sheep or goats, shall have an ear mark and brand differing from the ear mark and brand of his neighbors, which ear mark and brand shall be recorded by the Clerk of the County Court, where such cattle, hogs, sheep or goats shall be, and no person shall use more than one brand, but may record his brand in as many counties as he may think necessary.

Sec. 2. Cattle shall be marked with the ear mark, or branded with the brand of the owner, on or before they are twelve months old; hogs, sheep and goats shall be marked with the ear mark of the owner on or before they are six months old.

Sec. 3. If any dispute shall arise about any ear mark or brand, it shall be decided by reference to the book of marks and brands kept by the Clerk of the County Court; and the ear mark and brand of the oldest date shall have the preference.

Sec. 4. It shall be the duty of the Clerks of the County Courts in the respective counties of this State, to keep a well bound book, in which they shall record the marks or brands of each individual who may apply to them for that purpose, noting in every instance the date on which the brand or mark is recorded, which record shall be subject to the examination of every citizen of the county at all reasonable office hours free of charge for such examination.

Sec. 5. No brands except such as are recorded by the officers named in this act shall be recognized in law as any evidence of ownership, of the cattle, horses, or mules upon which, the same may be used.

Sec. 6. Minors owning cattle or hogs, separate from that of the father or guardian, may have a brand and mark which shall be recorded, the father or guardian shall be responsible for the proper use of such mark and brand of any such minor.

Sec. 7. Persons who have heretofore recorded their mark or brand, shall not be required to have the same recorded, again under this act in the same county.

Approved, March 20, 1848.

## CHAPTER 125.

## An Act regulating Estrays.

Section 1. Be it enacted by the Legislature of the State of Texas, That any person who shall take up any stray work ox, horse, mare, colt, mule, jack or jenny, which shall be found on his or her plantation, or land, shall forthwith give information thereof to some Justice of the Peace, for the county, and make oath before said Justice that the same was taken up at his or her plantation, or place of residence, or his or her land adjoining the same, and that the marks or brands have not been altered, or defaced since the same was taken up; and thereupon the said Justice shall issue his summons to two disinterested householders of the neighborhood, commanding them after being duly sworn, to value and appraise the same, and certify the valuation under their hands, together with a particular description of the animals, stature, marks, brands, color and age, which certificate shall be attested by the Justice, who shall thereupon require the taker-up to enter into bond with sufficient security in double the amount of the appraisement, payable to the Judge of the County Court and his successors in office, conditioned that the taker-up shall comply with the provisions of this act; which bond and appraisement shall be transmitted by him to the Clerk of the County Court within twenty days thereafter, to be by such Clerk entered in a book to be kept for that purpose, for which the Justice and the Clerk shall each receive the sum of fifty cents to be paid by the taker-up; Provided, that if two or more strays of the same species are taken up by the same person at the same time, they shall be included in the same entry and one advertisement, and the Justice and the Clerk shall receive no more fees than for one such strays.

Sec. 2. Be it further enacted, That when any stray as aforesaid shall be found dead, or shall have escaped, the taker-up shall without delay make report thereof to the Clerk on oath, who shall make a memorandum of the same in the margin of his book where the certificate of such stray or strays were registered; and the taker-up shall not be answerable for the same, nor shall the taker-up be liable for using said stray: Provided, the same shall not have been abused, and should the

same be abused by such use, the owner shall be entitled to damages from the person so abusing.

Sec. 3. Be it further enacted, That when any stray shall be proved away, and the owner and the taker-up cannot agree as to the expenses, application may be made by either party to the next Justice of the Peace, who shall appoint two householders of the neighborhood, who shall have the privilege of appointing an umpire, and adjusting the dispute, and their award shall be final.

Sec. 4. Be it further enacted, That if any person shall send, or take away any stray out of the State of Texas on any pretence whatsoever, through fraud, or shall trade, swap, or sell the same under twelve months, he, she or they so offending shall forfeit and pay double the amount of the appraisement of such stray or strays, recoverable before any Court of this State having jurisdiction thereof; one half to the use of the informer, and the other half to the use of the county wherein the offence shall have been committed, and moreover, shall pay the owner the amount of the appraisement, or if no owner appear, then to the county, subject to the regulation hereinafter ordered under the sixth section of this act.

Sec. 5. Be it further enacted, That any person who shall take up or use a stray of whatever description, contrary to the meaning of this act, shall for every such offence, forfeit and pay one hundred dollars, recoverable with costs in any court of this State having jurisdiction thereof; one half to the use of the county, and the other half to the person suing for the same; and be answerable in a suit for damages to the party aggrieved.

Sec. 6. Be it further enacted, That the property of every stray, or strays, so taken up as aforesaid, twelve months after such appraisement and not proved away by the owner thereof, shall be deemed vested in the taker-up of the same: provided, nevertheless, that should the owner apply in eighteen months, he shall receive the full amount of such appraised stray, one half from the taker-up and the other half from the county, after paying all reasonable expenses; and provided, also, that the person so taking up shall account for and pay into the hands of the Clerk of the County, who shall pay over the same into the County Treasury, for county purposes, one half of the appraised value of all such strays, according to the true intent and meaning of this act, and if the taker-up shall neglect

to account with the said Clerk for the same, he, or she so failing shall forfeit and pay the appraised value of all such stray, or strays, to be recovered by action of debt before any court having cognizance thereof, and it shall be the duty of the Clerk to commence suits respectively against all delinquents for the recovery of the same, and shall be entitled to receive five per centum on all money recovered and received, and the balance the said Clerk is hereby required to pay over to the County Treasury.

Sec. 7. Be it further enacted, That it shall and may be lawful for the former owners of any strays at any time, on proving their property to demand and receive from the County Treasurer one half of the value of any such strays appraised and accounted for as aforesaid, deducting therefrom the Treasurers Commission of two per centum for receiving and accounting for the same.

Sec. 8. Be it further enacted, That the Clerk of each county of this State shall keep a book in which he shall register all certificates of strays delivered to him, and file the same in regular order. It shall be his duty to cause a copy of the certificate of appraisement and description of every horse, work ox, mare, colt, mule, jack or jenny, to be published three times in some newspaper in the county, if there be one, if none be published in the county, then in the nearest newspaper in an adjoining county. It moreover shall be the duty of the Clerk to make out a fair and correct list of all strays and affix the same at the door of the court house of their respective counties, on the first day of each term of the County and District Courts, omitting only such strays as are proved away, escaped, or dead, under the penalty of fifty dollars for such neglect or omission. The Clerk shall receive as fees of office for advertising any ox, horse, colt, mule, jack or jenny, one dollar, and in addition one dollar for printer's fees for advertising the same.

Sec. 9. Be it further enacted, That at any time within twelve months, it may be lawful for the owner of any stray, or strays taken up under the provisions of this act, to prove his or her property, by his or her own oath, or by the oath or affirmation of any other competent witness in the following manner, to wit: a certificate giving particular description of the animal claimed shall be made out, giving the kind, marks, brands, stature, color or age of such stray, or strays as may be; which certificate shall be sworn to and subscribed before any Justice of

the Peace, and delivered to the taker-up, to be filed in the Clerk's office; and the deliverer of such certificate as before mentioned, on payment of all costs incurred from posting and keeping such stray, or strays, shall deliver up the same to the proper owner.

Sec. 10. Be it further enacted, That in all cases of the division of counties, the stray, or strays shall belong to the county wherein the same may be found, and shall be disposed of as other strays posted in said county.

Sec. 11. Be it further enacted, That any person taking up any stray cattle, hogs, sheep or goats, shall proceed in the same manner and form as in the first section of this act; and any person or persons estraying the same as provided for in this act, shall not be compelled to keep them more than six months from the date of appraisement, at the end of which time the taker-up shall be deemed the owner, and shall pay over to the County Treasurer for county purposes, one half of the appraised value of said animals so estrayed as aforesaid, provided, if the owner of the same shall appear within twelve months from the time of taking up and estraying any such animals, he shall be entitled to receive one half the appraised value of the same from the County Treasurer, and the other half from the taker-up, provided he pays the cost of estraying the same, the taker-up shall set up written advertisements, at two of the most public places in the neighborhood, describing such stray or strays to have been taken up by him.

Sec. 12. Be it further enacted, That it shall be unlawful for any person or persons to stray any animal or animals of the cow kind, except work oxen, unless the same shall have been on his or her plantation, or land, or stock range, at least one year next previous to the time of estraying the same, provided, that no horse, mare, mule, colt, jack or jenny shall be estrayed unless the same shall have been in the range of the taker-up for at least sixty days before estraying the same, and that any person or persons on making application to a Justice of the Peace for the purpose of estraying any cattle, shall make oath that the same have been one year on his or her plantation, or land, or stock range; and that he, or she did not directly or indirectly cause the same to be driven there, and he or she has made enquiry through the neighborhood where said cattle are, and cannot learn and do not know to whom the same belongs.

Sec. 13. Be it further enacted, That when any person or



persons are hunting estrays in another's stock range, they shall inform the owner or stock minder of said stock their intention or object, and if any such person or persons in driving off estrays, or otherwise shall drive, or cause to be driven either directly or indirectly any of said stock or any domestic animals out of their accustomed range, except he or she be the owner thereof, or have authority from the owner or his agent, such person or persons so offending shall forfeit and pay the sum of fifty dollars, to be recovered before any court of competent jurisdiction; one half to the informant and the other half to the county where the offence was committed, and shall be further liable in a suit for damages to the party aggrieved.

Sec. 14. Be it further enacted, That if any person or persons shall take up an estray or estrays and use them before estraying the same, such person or persons shall forfeit and pay the sum of fifty dollars, to be recovered before any court of competent jurisdiction; one half to the informant, and the other half to the county where the offence was committed; and shall be further liable for damages to the party aggrieved.

Sec. 15. Be it further enacted, That all estrays shall be kept in the county where the same were estrayed, at least one year after they have been estrayed, (except sheep, goats and hogs,) and shall not be sold within that period, and any persons acting in contravention of this section of this act, shall forfeit and pay the sum of one hundred dollars, recoverable before any court of competent jurisdiction; one half to go to the informant the other half to the county where the offence was committed, and shall be further liable to the owner in a suit of damages.

Sec. 16. Be it further enacted, That if any person that has taken up any animals shall refuse to deliver the same up to the owner on his having complied with the requisitions of this act, as respects proving the same, such owner shall have his action therefor, and if such owner recover in such action, he shall recover double costs.

Sec. 17. Be it further enacted, That all laws heretofore enacted on the subject of estrays, be, and the same are hereby repealed.

Approved, March 20. 1848.

## CHAPTER 126.

An Act to define the time of holding the Courts in the ninth Judicial District.

Section 1. Be it enacted by the Legislature of the State of Texas, That the District Courts in the ninth Judicial District shall be held:

In the County of Houston, on the third Mondays in April and October of each year, and may continue in session three weeks.

In the County of Anderson, on the third Monday after the third Mondays in April and October of each year, and may continue in session two weeks.

In the County of Henderson, on the fourth Monday after the third Mondays in April and October of each year, and may continue in session one week.

In the County of Dallas, on the fifth Monday after the third Mondays in April and October of each year, and may continue in session one week.

In the County of Denton, on the sixth Monday after the third Mondays in April and October of each year, and may continue in session one week.

In the County of Grayson, on the seventh Monday after the third Mondays in April and October of each year, and may continue in session one week.

In the County of Collin, on the eighth Monday after the third Mondays in April and October of each year, and may continue in session one week.

In the County of Kaufman, on the ninth Monday after the third Mondays in April and October of each year, and may continue in session one week.

In the County of Van Zandt, on the tenth Monday after the third Mondays in April and October of each year, and may continue in session one week.

Sec. 2. Be it further enacted, That all writs and process returnable to the regular terms of the Courts of said counties, as heretofore established by law, shall be returnable at the terms herein prescribed: and all laws and parts of laws conflicting with the provisions of this act are hereby repealed: and that this act take effect and be in force from and after its passage.

Approved, March 20, 1848.

CHAPTER 127.

An Act to organize Justices Courts, and to define the powers and jurisdiction of the same.

Section 1. Be it enacted by the Legislature of the State of Texas, That there shall be elected by the qualified electors of each Justices Precinct, in the several counties of this State, on the first Monday in August, 1848, and every two years thereafter, two Justices of the Peace, who shall hold their offices for the term of two years, and until their successors shall be elected and qualified according to law, and shall be commissioned by the Governor.

Sec. 2. That before any Justice of the Peace shall enter upon the duties of his office, he shall execute a bond, with two or more good and sufficient sureties, in the sum of five hundred dollars, payable to, and approved by the Chief Justice of the county, conditioned that he shall well and truly account for, and pay over to the County Treasurer of the County, all money that may come to his hands, for the use of the county; and also that he shall well and truly account for and pay over to the Treasurer of the State, all money that may come to his hands for the use of the State; and also, that he shall well and truly account for and pay over to the person entitled to receive the same, his agent or attorney, all money that may come to his hands, in any suit or action between parties, and he shall also take the oath of office prescribed by law, before some officer authorized to administer oaths, which shall be endorsed on his bond, together with the certificate of the officer who administered the same; such bond and oath shall be returned to, and recorded in the office of the Clerk of the County Court of the County in which such justice was elected.

Sec. 3. That the bond of a Justice of the Peace may be sued upon, in the name of any party or parties injured by a breach thereof; and shall not be void on a first recovery, but may be sued upon from time to time, until the whole amount of the penalty is recovered.

Sec. 4. That whenever the bond and oath of a Justice of the Peace have been returned to, and recorded in the office of the Clerk of the County Court, such Justice may immediately enter upon the duties of his office, and his acts shall be as valid as if he had been commissioned by the Governor.

Sec. 5. That when any person has been elected a Justice of the Peace, and neglects to execute a bond, and take the oath of office, as prescribed by this act, within twenty days after he shall have been declared to be elected, such election shall be deemed void, and the Chief Justice of the county shall immediately order another election.

Sec. 6. That any Justice of the Peace who shall be guilty of any misconduct or misdemeanor in office, may be prosecuted by indictment of the Grand Jury of his county, and on conviction thereof, in the District Court, shall be removed from office, and the office shall be declared vacant; any Justice of the Peace who shall be so removed, shall be thereafter incapable of holding the office of Justice of the Peace in this State.

Sec. 7. That whenever there shall be a vacancy in the office of Justice of the Peace, before the expiration of two years after a regular election, by death, resignation, removal, or otherwise, the Chief Justice of the county, where such vacancy exists, shall forthwith order an election to fill such vacancy; and the person so elected, shall hold his office for the unexpired term, and until a successor shall be elected and qualified.

Sec. 8. That every Justice of the Peace shall keep a docket, in which he shall enter all examinations and trials for criminal offences before him, the nature of the offence, the time when the examination was had, stating whether such trial was by a jury or by himself, the verdict of the jury, if any, the judgment rendered by the Justice, and the time when it was rendered, and how the same was executed; he shall also keep a docket, in which he shall enter; first, the titles of all suits commenced before him; second, the time when the first process was issued against the defendant, when it was returnable, and the particular nature thereof; third, the time when the parties or either of them, appeared before him, either without citation, or upon the return thereof; fourth, a brief statement of the nature of the plaintiff's demand or claim, and the amount claimed, and a brief statement of the nature of the defence made by the defendant. (if any;) fifth, every adjournment stating at whose request, and at what time; sixth, the time when the trial was had, stating whether the same was by a jury, or by the Justice; seventh, the verdict of the Jury. (if any;) eighth, the judgment rendered by the Justice, and the time of rendering the same; ninth, all applications for setting aside judgments, or granting new trials, and the order of the

Justice thereon, with the date thereof; tenth, the time of issuing execution, the name of the officer to whom it was directed, and the amount of the debt, damages and costs; and when any execution is returned, he shall note such return on said docket, with the manner in which it was executed; eleventh, all stays and appeals that may be taken, and the time when taken.

Sec. 9. That if from any cause whatever, a Justice of the Peace shall vacate his office, all books and papers belonging to, or appertaining to his office, shall be delivered to the person elected, and qualified to fill such vacancy, whenever demanded by him, and upon receiving such books and papers, he shall proceed with all judgments, executions and unfinished business therein contained, in like manner, as if the same had been commenced by himself.

Sec. 10. That any person or persons, having the possession of any books or papers, belonging, or appertaining to the office of a Justice, that has become vacant, who shall neglect or refuse to deliver them to the person elected and qualified to fill such vacancy, when demanded by him, may upon the motion of any person interested in such books or papers, be attached and imprisoned, by order of any Judge of the District Court of this State, until he shall so deliver such books and papers, provided, that such motion shall be supported by affidavit, and three days previous notice thereof, shall be given to the person or persons against whom such motion is made.

Sec. 11. That whenever any Justice of the Peace, shall be elected and qualified under the provisions of this act, he shall demand of his predecessor, all books and papers that may be in his possession, belonging or appertaining to his office; and upon receiving such books and papers, said justice shall proceed, with all executions, judgments, and unfinished business, therein contained, in like manner, as if the same had been commenced before himself: and any person or persons, having the possession of any such books or papers, who shall neglect or refuse to deliver them, when so demanded, may be proceeded against in like manner, as provided for in the previous section.

Sec. 12. That all judgments and final orders, given by any Justice of the Peace, in any suit or prosecution, civil or criminal, shall be given in open court.

Sec. 13. That whenever complaint shall be made in wri-

ting, and upon oath, to any Justice of the Peace, that any one has threatened, or is about to commit an offence against the property or person of another, it shall be the duty of such Justice, to examine such complaint, and any witnesses that may be produced on oath, and reduce such examination to writing, and cause the witnesses so examined to subscribe the same.

Sec. 14. That if it shall appear on any such complaint or examination, as is provided for in the previous section, that there is reason to fear the commission of any such offence, by the person complained of, it shall be the duty of such Justice, to issue a warrant under his hand, reciting the complaint, directed to any lawful officer of the county, commanding him forthwith to apprehend and bring the person complained of before such Justice, and upon such person being brought before such Justice, he may be required to enter into a recognizance, in such sum, as the Justice shall direct, not exceeding two thousand dollars, nor less than fifty dollars, with one or more sufficient sureties, to keep the peace toward the people of this State, and particularly toward the complainant for such time as such justice shall direct, to be stated in such recognizance.

Sec. 15. That whenever any Justice of the Peace shall believe that a person is about to commit an offence against the property or person of another, he may cause such person to be arrested, and require him to enter into a recognizance, in like manner, as provided for in the previous section.

Sec. 16. That Justices of the Peace shall be conservators of the peace, within their respective counties, and whenever complaint shall be made in writing, and upon oath, to any Justice of the Peace, that an offence against the laws of this State has been committed by any person or persons, or whenever it shall come to the knowledge of any Justice of the Peace either by view or confession, that any such offence has been committed, it shall be the duty of such Justice, to issue a warrant under his hand, directed to any lawful officer of the county, commanding such officer to arrest, and bring the person or persons so complained of, or offending before him forthwith, or at a time to be named in such warrant: such warrant shall in all cases state the cause of the arrest.

Sec. 17. That when any person charged with the commission of any offence, against the laws of this state, shall be brought before any Justice of the Peace, if such offence is charged to have been committed in any other county

of this State, and if, in the opinion of such Justice, there is probable cause to believe such offence has been committed by the person charged, he shall, by his warrant, send the person so charged, before some competent officer of the county where the offence is charged to have been committed, for examination or trial; but if such offence is charged to have been committed in the county where such Justice officiates; and if the offence charged is one that such Justice has not jurisdiction finally to try, he shall proceed to take the voluntary statement of the accused in writing, if he wishes to make any such statement; and the testimony of all witnesses, for and against the accused, who shall have the privilege of interrogating all such witnesses, all of which testimony shall be taken down in writing, and signed by the witnesses at the time of the examination; if, upon such examination, it shall appear to the Justice that no offence has been committed, or that there is no probable cause for charging the accused therewith, the Justice shall discharge him; but if it shall appear that an offence has been committed, and that there is probable cause to believe the accused guilty thereof, if such offence is bailable, and the accused offer sufficient bail, a recognizance shall be taken from him, with two or more good and sufficient sureties, to be approved of by the officer taking the same, in such sum as the Justice may direct, not less than one hundred dollars; conditioned, that the accused shall appear and answer the charge against him before the court of the county where the offence is cognizable, on the first day of the next term thereof, and not depart the court, without leave thereof; and thereupon the accused shall be discharged; but if the offence is not bailable, or sufficient bail be not offered, the accused shall be committed to the Jail of the county, where he is to be tried, there to remain until he shall be discharged by due course of law.

Sec. 18. That in all cases where a person has been committed to jail, or required to enter into a recognizance, under the provisions of the next preceding section of this act, the justice may, if he shall deem it necessary, bind all material witnesses against the accused, to appear and testify before the court of the county, where the offence is cognizable, on the first day of the next term thereof, and not depart said court without leave: such recognizance may be taken, with or without security as the justice shall direct.

Sec. 19. That in all cases where a person shall be required by any Justice of the Peace, under the provisions of this act, to enter into a recognizance, if he shall fail so to do, such Justice shall commit him to the County Jail, until he shall enter into the same in all such cases the warrant of commitment shall specify the cause of commitment, and the amount of the recognizance required, and the person so committed, may at any time be discharged by entering into a recognizance as required by the Justice; to be approved by the Sheriff of the county.

Sec. 20. That if any person charged with an offence against the laws of this State, shall remove or escape from the county where the offence was committed into another county, it shall be the duty of any Justice of the county where such offender may be, to endorse any warrant that may have been issued for the arrest of such offender, by any Justice of the Peace of any other county; which endorsement shall be sufficient authority for the arrest of the accused, within the jurisdiction of such Justice; and such offender shall be carried to the county where the offence was committed for examination or trial.

Sec. 21. That all recognizances taken under the provisions of this act, shall be made payable to the State of Texas; and all commitments under the same, shall be dated and signed by the Justice making them, and shall specify the cause for such commitment.

Sec. 22. That whenever a recognizance shall be taken by any Justice of the Peace, under the provisions of this act, if the same shall be for an offence which such Justice has not jurisdiction to try finally, or for an amount exceeding one hundred dollars, such Justice shall transmit the same to the court of the county which has jurisdiction over such offence and such recognizance, on or before the first day of the term of such court next to be held, after the taking thereof; and all examinations, testimony of witnesses, and voluntary statements of persons accused taken in such cases, shall be certified, and in like manner be returned to such term; and any Sheriff who shall take a recognizance under the provisions of this act, shall return the same in like manner, to the proper court, and may be proceeded against in like manner for not making such return.

Sec. 23. That if any Justice of the Peace, shall neglect or refuse to certify, and make return of any such recognizance or examination, so taken by him, to the proper court, he shall be



liable to be proceeded against in said court by attachment, as for a contempt of said court.

Sec. 24. That upon complaint being made in writing under oath, before any Justice of the Peace, that any personal property has been embezzled or stolen, and that the complainant suspects that such property is concealed in any particular house or place, if such Justice shall be satisfied that there is reasonable ground for such suspicion, he shall issue a warrant to search for such property; such warrant shall be directed to the Sheriff, or any lawful officer of the county, and shall command him to search the place where such property is suspected to be concealed, which place shall be designated, and the property particularly described, and bring such property before the Justice issuing the warrant.

Sec. 25. That Justices of the Peace shall have and exercise jurisdiction to try all breaches of the peace, riots, and affrays, and assaults and batteries committed in their respective counties, provided, that they shall not have jurisdiction finally to try any such offence, where any deadly weapon was used or attempted to be used; nor where the fine or penalty shall exceed one hundred dollars; they shall also have jurisdiction to try all misdemeanors where the fine, forfeiture, or penalty shall not exceed one hundred dollars; they shall also have jurisdiction to try all suits and actions in behalf of the State or any county thereof, or any individual to recover penalties, fines and forfeitures, where such penalty, fine or forfeiture, shall not exceed one hundred dollars; they shall also have jurisdiction to try all suits in behalf of the State, or any county thereof for any violation of the revenue law of this State, where the matter in controversy shall not exceed one hundred dollars. They shall also have jurisdiction in all suits and actions for the recovery of money on any account, bill, bond, note, or other instrument of writing; of all suits and actions for the recovery of specific articles, or the value thereof; of all suits and actions for torts, trespasses, and other injuries to person or property, where the amount claimed, or the value of the articles or the damages sought to be recovered, shall not exceed one hundred dollars, exclusive of interest and cost. They shall also have and exercise jurisdiction over all other matters not herein enumerated, that may be cognizable before a Justice of the Peace, under the laws of this State.

Sec. 26. That all examinations and trials, before Justices

of the Peace, for offences against the laws of this State, shall be had, as soon as possible, after the person charged is brought before the Justice, provided, however, that such examinations and trials may be adjourned for a reasonable time, to procure testimony, and such trials may be adjourned for a reasonable time to procure a Jury, when the accused shall demand one.

Sec. 27. That when any person charged with an offence against the laws of this State, shall be brought before a Justice of the Peace, if such offence is one that such Justice has jurisdiction finally to try, and the accused shall not demand a jury, such Justice shall proceed to hear the evidence, and if in his opinion, the accused is guilty, he shall assess the fine, penalty, forfeiture or imprisonment for such offence, and render judgment therefor; but if the accused shall demand a jury, then they shall be sworn to try the cause; and if they return a verdict against the accused they shall also assess the fine, forfeiture, penalty, or imprisonment to be imposed, unless the same is specifically imposed by law; and the Justice shall render judgment upon such verdict; but if the fine, forfeiture, penalty, or imprisonment for such offence is specifically imposed by law, then upon the return of a verdict against the accused, the Justice shall render judgment thereon for such fine, forfeiture, penalty or imprisonment, as may be so imposed.

Sec. 28. That in all cases where a judgment shall be rendered by a Justice of the Peace, for any fine, forfeiture or penalty in money, for an offence against the laws of this State; such Justice shall have power to commit the offender to the county jail, until such fine, forfeiture or penalty and costs shall be paid; or he may issue execution therefor, as in civil suits, and whenever a judgment shall be rendered by a Justice of the Peace condemning any person to imprisonment, for any offence against the laws of this State, such Justice shall immediately issue his warrant for the commitment of such offender to the county jail, for the term of imprisonment, specified in such judgment.

Sec. 29. That whenever a Justice of the Peace shall render a judgment for a fine, penalty, forfeiture or imprisonment, for any offence against the laws of this State, that he has jurisdiction finally to try, he shall certify the fact to the next term of the District Court of his county, which certificate shall be a bar to any further prosecution, for the same offence.

Sec. 30. That no person shall be sued before any Justice of

the Peace, except in the precinct where such person resides, or in the precinct where the cause of action accrued, if in the same county; provided, however, that if there be no Justice of the Peace, in the precinct where the defendant resides, then such defendant may be sued, in the nearest precinct, where there is a Justice, provided, also, that where a defendant has no fixed place of board or residence, he may be sued before any Justice of the Peace in the county; and provided, also, that when a defendant resides in an incorporated city or town, then he may be sued before any Justice of the Peace, within the limits of the incorporation. In all cases the residence of a married man shall be deemed to be where his family resides, and that of a single man where he boards.

Sec. 31. That all process from a Justice of the Peace, except in criminal cases, shall be under the hand of such Justice, directed to some lawful officer, whose duty it shall be to execute and return the same; all such process shall be returnable, except in cases where it is otherwise provided for by law, to some regular term of such Justices Court, and shall be served by leaving a copy thereof, with the defendant, at least five days before the return day, exclusive of the day of service and return day.

Sec. 32. That whenever in any civil suit before a Justice of the Peace, the plaintiff, his agent or attorney, shall make oath in writing, before such Justice of the Peace, that the defendant is absent from this State, or that he is a transient person, so that the ordinary process of law cannot be served upon him, such Justice shall issue a citation, directed to some lawful officer commanding him to cite the defendant to appear at some regular term of his Court, to answer the plaintiff's complaint, stating the nature and amount thereof; such citation shall be returnable at some regular term of such Justice's Court, and shall be published in some newspaper printed in the county, if there be one, for at least three successive weeks before the return day; if there be no newspaper printed in the county, then it shall be published in like manner, in some newspaper printed in the nearest county where there is one.

Sec. 33. That any person may appear before any Justice of the Peace and confess a judgment, for any amount within the jurisdiction of a Justice of the Peace, without the issuance of any citation; and all such confessions of judgment shall be recorded, in like manner as other judgments.

Sec. 34. That when a defendant, who has been served with a citation, from a Justice of the Peace, according to law, shall neglect to appear, at or before two o'clock, P. M. of the return day of the citation, or at, or before the same hour of any day, to which the cause may have been continued, the Justice shall proceed in the following manner: 1st. If the plaintiff's cause of action is liquidated, and proved by any instrument in writing, purporting to have been executed by the defendant, the Justice shall, whether the plaintiff appear or not, after allowing the proper credits for all payments endorsed on such instrument in writing, render judgment by default, against the defendant, for the amount which shall appear by such instrument in writing, to be due to the plaintiff, together with the costs of suit. 2nd. If the plaintiff's cause of action is not liquidated, and the plaintiff appear in person, or by agent or attorney, the Justice shall proceed to hear his allegations and proofs, and shall determine the cause, as shall appear from the testimony to be right, and if it shall appear from such testimony that the plaintiff is entitled to recover, judgment shall be rendered by default against the defendant, for such amount as the testimony shows the plaintiff to be entitled to, with costs; but if it do not appear, that the plaintiff ought to recover, judgment shall be given for the defendant, against the plaintiff for costs. 3rd. If the plaintiff fail to appear, at or before 2 o'clock, P. M., of the return day of the citation, or at, or before the same hour of any day, to which the cause may have been continued, except in the case herein before provided, the Justice shall render judgment of non suit, against the plaintiff with costs.

Sec. 35. That every Justice of the Peace shall have power, upon good cause shown, supported by affidavit, to set aside a judgment by default, or of non suit, at any time within ten days after the same was rendered, provided, that one day's notice of such application, shall be given to the opposite party, his agent or attorney, by the party applying, and in such cases the suit shall be continued to the next term of such Justice's Court.

Sec. 36. That when both parties in any suit, before a Justice of the Peace, appear in person, or by agent or attorney at the time appointed for the trial thereof, or at the time, to which it may have been continued, if the amount in controversy shall not exceed ten dollars, or if the amount in controversy shall

exceed ten dollars, and neither party shall make application to have the cause tried by a Jury, the Justice shall proceed to hear the allegations and proofs of the parties, and the defendant upon giving notice thereof, to the plaintiff before the trial commences, shall be allowed to present and prove any claim or demand, not exceeding one hundred dollars, exclusive of interest against the plaintiff, that is similar in its character, to the claim or demand of the plaintiff, and the suit shall be determined by the Justice as from the testimony shall seem to be right: If it shall appear from the testimony, that the plaintiff is entitled to recover, judgment shall be entered in his favor, for such amount as shall appear, to be due him, with costs; but if it shall appear from the testimony, that the defendant is entitled to recover, then judgment shall be entered in his favor, for such amount as shall appear to be due him, (if any) with costs: If the amount in controversy shall exceed ten dollars, and either party shall make application to have the case tried by a Jury, then the same shall be so tried, in like manner as herein before provided; and upon the return of the verdict of the Jury, the Justice shall enter judgment thereon, with costs, provided, however, that whenever it shall appear on any such trial, that the defendant's claim or demand, was acquired after the commencement of the plaintiff's suit, the defendant shall be liable for all the costs.

Sec. 37. That in all examinations and trials, for offences against the laws of this State, before any Justice of the Peace, it shall be the duty of such Justice, on the application of any party thereto, to issue subpoenas for witnesses, which subpoenas, may be directed to any officer authorized to execute and return process, in any county of this State, where any such witness resides, and in all suits before a Justice of the Peace, it shall be his duty, on the application of either party, to issue subpoenas for witnesses residing in the county, which subpoenas may be directed to any lawful officer of the county; and all such subpoenas shall be executed by the officer to whom they may be directed, by reading the same to the witness, or leaving a copy thereof, at his usual place of abode, and shall be returned on or before the time when the witness is required to attend.

Sec. 38. That Justices of the Peace, shall have power to enforce the attendance of witnesses and to compel them to

give evidence in their County, by attachment and imprisonment.

Sec. 39. That on the trial of any civil suit, before a Justice of the Peace, if either party shall make oath, that he knows of no witness, by whom he can prove a fact, that is material to his claim or defence, except himself, the party making such oath, shall be examined touching such fact, and either party to any such suit, may cause the other party, to be subpoenaed, and examined as a witness.

Sec. 40. That upon all trials by a Jury before a Justice of the Peace, if any exceptions are taken, to any deposition or evidence, the same shall be decided by the Justice.

Sec. 41. That all witnesses who are subpoenaed to attend a Justice's Court, shall be entitled to receive one dollar per day, for each day's attendance, which if claimed by the witness, at the time of trial, shall be taxed in the bill of costs, against the party cast in the suit.

Sec. 42. That whenever, in any civil suit, before any Justice of the Peace, the evidence of a female is required, or the evidence of any witness residing in the County, who is unable by reason of age, infirmities or sickness, to attend the Court, or the evidence of a witness residing out of the county, the party interested, may take the deposition of any such witness, by filing with the Justice, before whom such suit is pending, interrogatories to such witness, and serving a copy of the same on the opposite party, his agent or attorney, with a notice that he intends to apply for a commission to take the answers of the witness, to such interrogatories; such notice and copy may be served by any lawful officer of the county, or by any other person; but when served by any other person, than an officer, an affidavit shall be endorsed on or annexed to such notice, by the person serving the same, stating the fact of the service of such notice, and copy of interrogatories, which affidavit, unless disproved, shall be evidence of such service, and the opposite party may file cross interrogatories with the Justice at any time before the Commission issues.

Sec. 43. That at the expiration of five days, from the service of any such notice, and interrogatories, on the application of the party who filed the same, his agent or attorney, it shall be the duty of the Justice to issue a commission, with a copy of the interrogatories, and cross interrogatories if any have been filed, directed to some Chief Justice, Notary Public, or Clerk

of the District or County Court of the County, where such witness resides, requiring such Chief Justice, Notary Public, or Clerk, to take the answers of such witness to the interrogatories, and cross interrogatories, that accompany such commission, to cause the witness to be sworn to his answers, and to subscribe them; and every Chief Justice, Notary Public, or Clerk of the District or County Court, to whom any such commissions may be directed, shall execute the same according to the directions therein contained, and for that purpose, he shall have like powers as Chief Justices, Notaries Public, and Clerks of the District Court have, to execute commissions to take depositions, when issued from the District Court, he shall certify under his hand and official seal, the manner in which he has executed such commission, and shall seal up such certificate and answer, with the commission and interrogatories, write his name across the seal of the envelope, direct the same to the Justice from whom the Commission issued, and forward it, either by mail, or private conveyance; if sent by mail he shall cause the Post master or his deputy mailing the same to endorse thereon, that he received it from the hands of the officer who took such answers; if sent by private hand, the person delivering the same to the Justice, shall make affidavit in writing, before such Justice, that he received the package, from the hands of the officer, who took such answers, and that it has undergone no change since.

Sec. 44. That all evidence, so taken and returned, to any Justice's Court, may be read in evidence on the trial of the suit in which it was taken, and shall have the same force and effect, as if the witness were examined in open Court, provided, the answers are responsive to the interrogatories, and, provided, also, that the interrogatories and answers shall be subject to all legal exceptions; but when such depositions are filed with the Justice, before the trial commences, no exceptions shall be heard, as to the manner of taking and returning such depositions, unless they are taken before the trial commences.

Sec. 45. That all the rules of evidence prescribed for the government of District Courts, where the same do not conflict with the provisions of this act, shall govern the proceedings in the Justices Courts, so far as the same are applicable.

Sec. 46. That any Justice of the Peace, before whom any suit or proceeding is pending, may, for good cause shown, by either party, and supported by affidavit, continue the same, to

the next term of his Court; and if such cause or proceeding is such as can be tried by such Justice, at any other time, than at a regular term, he shall have the like power to continue the same for a reasonable time.

Sec. 47. That any Justice may, for good cause shown, supported by affidavit in writing, grant a new trial in any civil suit tried before him, whenever he shall consider that justice has not been done in the trial of such case: Provided, however, That all applications for a new trial shall be made within ten days after the rendition of judgment, and one day's notice of the application shall be given to the opposite party, his agent or attorney: Provided, also, That not more than one new trial shall be granted to either party; and in all cases where a new trial shall be granted, the cause shall be continued to the next term of the court.

Sec. 48. That in all proceedings before a Justice of the Peace, in which either party may be entitled to a Jury, and shall make application for one, such Jury shall be composed of six men, and the Justice shall forthwith issue a writ, directed to some lawful officer of the County, commanding him to summon forthwith six disinterested freeholders, or householders, to serve as a Jury; and if any person so summoned shall fail or refuse to attend, he may be fined by the Justice, three dollars, for the use of the County, for such failure or neglect, unless he shall show to such Justice good cause for such failure or neglect, after being cited so to do. In all trials for criminal offences, either the person prosecuting, or the accused, may challenge two of such Jurors without assigning any cause therefor; and in all trials, whether civil or criminal, either party may challenge any number of Jurors for cause, which cause shall be judged of by the Justice. If, from challenges, or any other cause, a sufficient number of the Jury do not attend, the Justice shall order some lawful officer to summon a sufficient number of qualified Jurors to make up the Jury. When a Jury is formed, the Justice shall administer to them an oath or affirmation, in form as follows: "You and each of you do solemnly swear, or affirm. (as the case may be,) that you will well and truly try the cause about to be submitted to you, and a true verdict give therein according to the evidence, so help you God."

Sec. 49. That whenever a Jury has been formed in a Justice's Court, the same Jury may be called on to try all causes before such Justice, in which a Jury is required, on the same



day, without the necessity of a new writ in each case; Provided, however, that Juries shall be sworn for each cause.

Sec. 50. That in all cases before Justices of the Peace, other than prosecutions for offences against the laws of this State, the party applying for a Jury, shall, before the trial commences, pay a Jury fee of three dollars, which shall be equally divided between the Jurors trying the cause; and if the party paying such fee, shall recover judgment, the Jury fee shall be taxed in the bill of costs, and when collected, shall be refunded to him; and in all trials before a Justice of the Peace, which shall be tried by a Jury when the Jury fee is not required to be paid before the trial commences, a like Jury fee shall be taxed in the bill of costs, and when collected shall be equally divided between the Jurors who tried the same.

Sec. 51. That every person who shall have a cause of action against another, within the jurisdiction of a Justice of the Peace, who shall make oath in writing before such Justice, that he is too poor to pay the fees of such action, shall be entitled to all process necessary for the trial of such action, and to have a trial thereof, free of costs.

Sec. 52. That a Justice of the Peace may grant a stay of execution on any judgment for money, rendered by himself in a civil suit, for three months; Provided, the person against whom such judgment was rendered, shall with one or more good and sufficient sureties, to be approved by such Justice, appear before him and acknowledge themselves, and each of them, bound to the successful party in such sum as shall secure the amount of the judgment, interest, and costs; which acknowledgment shall be entered by the Justice on his docket, and shall have the force and effect of a judgment against the persons making the acknowledgment, upon which execution shall issue for the amount of the original judgment, interest and costs, in case the same shall not be paid on or before the expiration of such stay; Provided, however, that no such stay shall be granted, unless the same is applied for within ten days after the entry of the original judgment.

Sec. 53. That any party, his agent or attorney, may appeal from any final judgment rendered by a Justice of the Peace, to the District Court of the county; Provided, he shall within ten days after the entry of such judgment, file with such Justice, a bond with one or more good and sufficient sureties, in a sum equal at least to double the amount of such judgment, interest

and cost, payable to the plaintiff, conditioned, that the party appealing, shall prosecute his appeal to effect, or shall pay and satisfy the judgment or decree that may be made or rendered by the District Court against the obligors in such bonds.

Sec. 54. That in all cases where an appeal shall be taken from a Justice's Court to the District Court, it shall be the duty of the Justice from whose judgment such appeal was taken, immediately to make out a transcript of his entries made on his docket in such case, and file the same with the original papers of the cause with the clerk of the District Court, on or before the first day of the term of said Court, next after such appeal was taken; but if there is not time for such transcript and papers to be filed at such first term, then they shall be so filed at the next succeeding term of said Court.

Sec. 55. That in all cases before a Justice of the Peace, other than prosecutions for offences against the laws of this State, where a party against whom a judgment for money has been rendered, shall not give notice of appeal at the time of trial, or shall not obtain a new trial, or such judgment shall not be set aside, or a stay shall not be taken before the expiration of the term of the Court at which such judgment was rendered, the Justice shall on the second day after the expiration of the term of the Court, issue an execution against the estate of the defendant; Provided, however, that when an appeal shall be taken and bond given, or where a new trial shall be granted in the cause, or where such judgment shall be set aside, or where a stay shall be taken at any time within ten days after such judgment was rendered, any such execution shall be superceded and quashed, and if notice of appeal is given at the time of trial, but no bond is filed within ten days thereafter, then execution shall issue in like manner.

Sec. 56. That all executions issued by a Justice of the Peace, shall be directed to some lawful officer of the State, and shall be returnable to his Court in sixty days. It shall be the duty of the officer, to whom any such execution is directed, to execute and return the same, on or before the return day thereof, and all the provisions of the laws regulating executions from the District Courts, where the same are not inconsistent with the provisions of this act, shall apply to and govern executions from Justices of the Peace, so far as the same are applicable.

Sec. 57. That in cases of emergency, any Justice of the

Peace may depute any person of good character, to execute any process, civil or criminal: Provided, That, in every such case, the Justice shall certify on the back of such process, that the person is so deputed by him; and the person so deputed, shall take and subscribe an oath, that he will execute such process according to law, which oath, with the certificate of the Justice, that it was administered, shall be endorsed on, or annexed to such process.

Sec. 58. That Justices of the Peace shall have power to administer oaths of office in all cases, and also all other oaths or affirmations, and to give certificates thereof.

Sec. 59. That all fines, forfeitures, and penalties for offences against the laws of this State, that may be collected under the provisions of this or any other law regulating proceedings in Justices Court, shall be paid into the County Treasury, for the use of the State or County, as the case may be, on or before the first day of the term of the District Court for the County, next after the same may have been collected; and if any Justice, or other officer, shall fail so to pay any such fine, penalty or forfeiture, on the day aforesaid, the County Treasurer may recover judgment against such Justice or other officer; and the sureties on his bond, for all such fines, penalties and forfeitures, with damages on the amount thereof, at the rate of five per cent. per month, from the time they were so collected, by motion before said District Court, three days notice of such motion being first given to such Justice or other officer and his sureties.

Sec. 60. That no suit shall be brought before any Justice of the Peace where he may be interested, or where he may be related to either the plaintiff or defendant, within the third degree of consanguinity or affinity; but in all such cases, suit shall be brought before the nearest Justice, not so interested or related.

Sec. 61. That in all cases where a suit shall be brought before a Justice of the Peace for the recovery of specific articles, on the trial thereof, the Jury or Justice, as the case may be, shall, if they find for the plaintiff, assess the value of such articles separately; and if the plaintiff recover, judgment shall be rendered for the specific article or articles, if to be had: but if not, then for their value, and the Justice shall issue thereon, his writ directed to some lawful officer, commanding him to put the plaintiff in possession of the article or articles so recovered, if to be found: but if not, then to proceed and make the value of such article or

articles, with the legal interest from the date of judgment, and costs, as under execution; and every Justice shall, from time to time, when required by a party having a judgment in his court, issue such executions, or other writs, as may be necessary to enforce such judgment, until the same shall have been satisfied.

Sec. 62. That every Justice of the Peace, upon complaint on oath, and in writing, charging any person with an offence against the laws of the United States, shall have power to issue his warrant for the arrest of the accused; and if, upon an examination, to be conducted in the manner herein provided for examinations for offences, such Justice shall think there is probable cause, to believe the accused guilty; if the offence is bailable, he may take his recognizance to appear before the Court that has cognizance of the offence; but if not bailable, he shall commit him to jail, and certify the fact to said Court, at its next term.

Sec. 63. That in all trials before Justices of the Peace, for breaches of the peace, riots and affrays, and assaults and batteries, if the accused shall not be convicted, the person filing the complaint shall be adjudged to pay the costs; and upon all complaints for offences against the laws of this State, or of the United States, before a Justice of the Peace, if he shall be of opinion that there was no good foundation for such complaint, he shall give judgment for cost against the complainant.

Sec. 64. That each Justice of the Peace shall hold a term of his Court once in each month, and may transact such business out of said term as is authorized by law; and the Justices of the Peace of each Precinct in the State, shall be divided into two classes by the Chief Justices of their respective counties, who shall cause a record of such division to be made in the County Court, and those Justices belonging to the first class, shall hold their Court on the first Saturday of each month; and those of the second class, shall hold their court on the last Saturday of each month.

Sec. 65. That no justice shall render a judgment upon any attachment or sequestration, unless the defendant shall have been cited, either personally or by publication.

Sec. 66. That the Justice of the Peace, when he issues a citation in a civil suit, shall insert in the citation, the cause of action, or endorse it thereon.

Sec. 67. That no party, after taking a stay, or an appeal in a

Justice's Court, shall be entitled to a writ of certiorari, to remove the cause to the District Court; and no writ of certiorari shall be granted by a Judge of the District Court, to remove a cause from a Justice's Court, unless the party applying for the same shall make an affidavit in writing, setting fourth sufficient cause to entitle him to such writ; nor shall any such writ be granted after ninety days from the decision of the cause by the Justice of the Peace; and no such writ shall be issued unless the party applying shall first give bond, with two or more sufficient sureties, payable to the adverse party, for a sum equal to, at least double the value of the amount in controversy, conditioned in the same manner as in appeals to the District Court; which bond shall be approved by the Clerk of the District Court, and together with the affidavit, shall be filed in his office; and upon service of such certiorari being made on the Justice of the Peace, he shall make out a certified copy of the entries in the cause, on his docket, and transmit the same, with the original papers, to the District Court, on or before the first day of the term next thereafter; and the case may be reviewed and tried de novo, and if the judgment be affirmed, ten per cent. damages shall be added and judgment rendered against all the obligors in such bond.

Sec. 68. That this act shall take effect and be in force on and after the first Monday in August, 1848; and on and after that day, "An act to organize Justices Courts, and to define the powers and jurisdiction of the same," passed, 11th May, A. D. 1846, shall be, and is hereby repealed.

Approved. March 20, 1848.

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## CHAPTER 128.

An Act to provide for fixing the seat of Justice of the County of Dallas.

Section 1. Be it enacted by the Legislature of the State of Texas, That the second Saturday of May, one thousand eight hundred and forty eight, be fixed as the day for holding an election in the County of Dallas for the selection of a suitable place for the permanent location of the County seat of Justice of said

county; and it shall be the duty of the Chief Justice of said county to give public notice of the same in writing, to be posted up at the different precincts, immediately after the passage of this act, and to issue writs of election to the different precincts, at least ten days prior to said election.

Sec. 2. Be it further enacted, That it shall be the duty of said Chief Justice to receive and make public in writing posted up at the different precincts such propositions as may be offered by the citizens of the county, as inducements in favor of the selection of places recommended as suitable locations, for the County seat of said county.

Sec. 3. Be it further enacted, That the propositions submitted to the Chief Justice in compliance with the second section of this act, shall be in the shape of penal bonds, and shall be collected at the suit of said Chief Justice or his successor in office, in the District Court, for the use of the county, and the proceeds applied to the erection of county buildings.

Sec. 4. Be it further enacted, That the election for said county seat shall be conducted in conformity with the existing laws regulating elections at the time thereof, and the returns made to the Chief Justice, in ten days after the election, who shall declare the place receiving the highest number of votes to be the legal seat of Justice of said county, provided, any one place shall have received a majority of all the votes polled at said election; but in the event that no one place shall have received a majority as aforesaid, then and in that case, it shall be the duty of the Chief Justice, to proceed to order another election after giving notice as in the first instance, putting in nomination the two places that have received the greatest number of votes, which shall be conducted and returns made as heretofore provided, and the place then receiving the highest number of votes, shall be declared the County seat of Justice, provided it shall not be more than five miles from the centre of said county.

Sec. 5. Be it further enacted, That William Jenkins, James J. Beeman, William Hoarde, Micajah Goodwin and R. J. West, of whom three may constitute a quorum to do business shall be and they are hereby appointed commissioners to lay out and sell lots if necessary, and to superintend the carrying out of such propositions as may have been made in behalf of the location selected, and report to the Chief Justice, whether or not the bonds containing propositions in favor of said selected place, have been strictly complied with, by the makers and obligors of the same.

Sec. 6. Be it further enacted, That as soon as the county buildings are received by the Commissioners and reported to the Chief Justice, the Clerks of the District and County Courts, Sheriff and District Surveyor, shall remove their offices and papers to the place selected, as the county seat, and all Courts thereafter shall be held at the same county seat.

Sec. 7. Be it further enacted, That all laws and parts of laws, conflicting with this act are hereby repealed, and that this act take effect and be in force from and after its passage.

Approved, March 20, 1848.

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#### CHAPTER 129.

An Act to repeal the eleventh section of an act supplementary to an act to detect fraudulent land certificates, and to provide for issuing patents to legal claimants, approved, February 4th, 1841.

Section 1. Be it enacted by the Legislature of the State of Texas, That the eleventh section of an act supplementary to an act to detect fraudulent land certificates, and to provide for issuing patents to legal claimants, approved, February 4th, 1841, be and the same is hereby repealed, and that this act take effect from its passage.

Approved, March 20, 1848.

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#### CHAPTER 130.

An Act creating the County of Cooke, in honor of William G. Cooke.

Section 1. Be it enacted by the Legislature of the State of Texas, That all that territory included within the following limits, to wit: beginning on Red River, at the North West corner of

Grayson County; thence South, to the North line of Denton county; thence West, to the Northwest corner of Denton County; thence South, thirty miles to the Southwest corner of said county of Denton; thence West, sixty miles; thence North to Red River; thence down said River, to the place of beginning; be and the same is hereby created a new county to be known and called Cooke.

Sec. 2. Be it further enacted, That the inhabitants residing within said limits, shall be entitled to all the rights, privileges and immunities, enjoyed by the inhabitants of other new counties in this State.

Sec. 3. Be it further enacted, That it shall be the duty of the Chief Justice of Denton County, to cause an election for county officers to be held in said Cooke County on the first Monday in August 1848; said election to be held in accordance with an act to provide for the organization of the several counties of the State, approved, 11th April, A. D. 1846.

Sec. 4. Be it further enacted, That the seat of Justice of said County, shall be at the residence of Aaron Hill, in said county, until otherwise provided by law; that this act take effect from and after its passage.

Approved, March 20, 1848.

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#### CHAPTER 131.

An Act regulating fees to be charged by the Secretary of State, Commissioner of the General Land Office, Comptroller, Treasurer, and Adjutant General.

Section 1. Be it enacted by the Legislature of the State of Texas, That it shall be the duty of the Secretary of State, Commissioner of the General Land Office, Comptroller, Treasurer, and Adjutant General, to furnish any person who may apply for the same, with a copy of any paper, document, or record in their respective offices, and also to give certificates, attested by the seals of their respective offices, certifying to any fact or facts contained in the papers, documents or records of their offices, to any person applying for the same.



Sec. 2. That it shall be lawful for the said Secretary of State, Commissioner of the General Land Office, Comptroller, Treasurer and Adjutant General, to demand and receive the following fees for the services mentioned in the preceding section:

For copies of any paper, document, or record in their offices, in the English language, including certificate and seal, for each hundred words, fifteen cents.

For copies of any paper, document or record in their offices, in any other language than the English, including certificate and seal, for each hundred words, twenty five cents.

For each translated copy of any paper, document, or record in their offices, including certificate and seal, for each hundred words, thirty cents.

For the copy of any plat or map in their offices, such fee as may be established by the officer in whose office the same is made, to be determined with reference to the amount of labor required.

For each certificate not otherwise provided for, fifty cents.

Sec. 3. That it shall be the duty of the Secretary of State, Commissioner of the General Land Office, Comptroller, Treasurer, and Adjutant General, respectively, to keep a fee book in their several offices, in which they shall enter all the fees demanded or received for any of the services named in this act, and they shall quarterly furnish to the Comptroller an account of all fees so demanded and received by them respectively; which account shall be verified by affidavit: and they shall also, at the end of each and every quarter, pay over to the Treasurer of the State, all money received by them respectively, under the provisions of this act.

Sec. 4. That the Secretary of State, Commissioner of the General Land Office, Comptroller, Treasurer, and Adjutant General, respectively, or any person employed by them in their respective offices, shall demand and receive any other or higher fee than is prescribed in this act, for any of the services herein named; or shall fail to account for and pay over any such fees as required by this act, shall be liable to indictment by a Grand Jury, and on conviction thereof, shall be fined in a sum not less than one hundred dollars for each case.

Sec. 5. That nothing contained in this act shall authorize either of the officers herein named, to demand or receive from any officer of the State, for copies of any papers, documents, or records in their offices, or for any certificate in relation to any

matter in their offices, when such copies or certificates are required in the performance of any of the official duties of such office.

Sec. 6. That this act shall take effect and be in force from and after its passage.

Approved, March 20, 1848.

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#### CHAPTER 132.

An Act to change the name of Hn. Connor to Hn. Valentine Dalton, and to make him a lawful heir of Valentine T. Dalton.

Section 1. Be it enacted by the Legislature of the State of Texas, That the name of Hn. Connor be, and the same is hereby changed to Hn. Valentine Dalton, and the said Hn. Connor shall be, and he is hereby declared to be, the lawful heir of said Valentine T. Dalton, by the name aforesaid.

Sec. 2. That this act be in force and take effect from and after its passage.

Approved, March 20, 1848.

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#### CHAPTER 133.

An Act to define the time of holding elections for the several State and County Officers, and for Representatives to the United States Congress.

Section 1. Be it enacted by the Legislature of the State of Texas, That the next regular election for Governor, Lieutenant Governor, members of the State Legislature, Commissioner of the General Land Office, and Representatives to the United States Congress, shall be held on the first Monday in August. Anno Domini, 1849, and elections shall be held for the

said officers biennially thereafter, until otherwise provided by law.

Sec. 2. Be it further enacted, That there shall be elected in accordance with the provisions of law on the first Monday in August, Anno Domini, 1848, in each county in the State, one Chief Justice, four County Commissioners, one Sheriff, one Coroner, one County Clerk, two Justices of the Peace, and one Constable for each Justices precinct, and such other officers as are or may be required by law to be elected by the people; an election shall be held biennially thereafter to fill such offices until otherwise provided by law.

Sec. 3. Be it further enacted, That there shall be elected in accordance with law, on the first Monday in August, Anno Domini, 1850, in each county in the State, one Clerk of the District Court, and elections shall be held on the same day every four years thereafter until otherwise provided by law.

Sec. 4. Be it further enacted, That all of the officers elected by authority of the second section of this act, shall hold their offices for two years after their election and until their successors be duly qualified.

Sec. 5. Be it further enacted, That an act entitled an act to fix the time of holding elections for members of the Congress of the United States, approved on the 11th May, 1846, be, and the same is hereby repealed.

Approved, March 20, 1848.

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#### CHAPTER 134.

An Act prescribing the mode of establishing the liabilities of drawers and endorsers of Bills of Exchange and Promissory Notes.

Section 1. Be it enacted by the Legislature of the State of Texas, That the holder of any bill of exchange or promissory note assignable or negotiable by law, may secure and fix the liabilities of any drawer or endorser of such bill of exchange, and every endorser of such promissory note without protest or notice by instituting suit against the acceptor of such bills of

exchange, or against the maker of such promissory note, before the first term of the District Court to which suit can be brought after the right of action shall accrue, or by instituting suit before the second term of said court, after the right of action shall accrue, and showing good cause why suit was not instituted before the first term next after the right of action accrued.

Sec. 2. That whenever the amount of such bill of exchange or promissory note shall be within the jurisdiction of a Justice of the Peace, the holder thereof may secure and fix the liability of any drawer or endorser, by instituting suit against the acceptor or maker within sixty days next after the right of action shall accrued.

Sec. 3. That the drawer of any bill of exchange which shall not be accepted, when presented for acceptance, shall be immediately liable for the payment thereof, and the holder of such bill, may secure and fix the liability of any endorser thereof, by instituting suit against such drawer within the time and in the manner prescribed by the first and second sections of this act.

Sec. 4. That the holder of any such bill of exchange or promissory note, may also secure and fix the liability of any drawer or endorser of such bill of exchange or promissory note for the payment thereof, without suit against the acceptor, drawer or maker, by procuring such bill or note to be regularly protested by some Notary Public of any county for non-acceptance, or non-payment, and giving notice of such protest to such drawer or endorser, according to the usage and custom of merchants.

Sec. 5. That it shall be the duty of every Notary Public who shall protest any bill of exchange or promissory note for non-acceptance or non-payment, to set forth in his protest and in his notarial record, a full and true statement of what shall have been done by him in relation thereto, according to the facts, by specifying therein whether demand was made of the sum of money in such bill or note specified, of whom, and when, and where such demand was made. It shall also be his duty to make the requisite notices of protest for the drawers and endorsers who are sought to be made liable, and when any such notice shall be served by him, he shall note in his protest, and notarial record, on whom and when such notice was served, and when such notice shall be deposited in the post

office by him, he shall specify, when and where mailed, and to whom, and where directed, and such protest, or a copy of such notarial record, certified under the hand and seal of such Notary Public shall be admitted in all the courts of this State, as evidence of the facts therein set forth.

Sec. 6. That three days of grace shall be allowed on all bills of exchange and promissory notes, assignable and negotiable by law; Provided, that the fourth, fifth and sixth sections of this act, shall extend only to contracts between merchant and merchant, their factors and agents.

Sec. 7. That the first section of an act, entitled "an act to dispense with the necessity of protesting negotiable instruments for dishonor, and of giving notice thereof; and to regulate assignments of all written instruments be, and the same is hereby repealed, and that this act take effect and be in force from and after its passage.

Approved, March 20, 1848.

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#### CHAPTER 135.

An Act authorizing the appointment of a Fiscal Agent, and for the better security of the revenue.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Comptroller of Public Accounts, is hereby authorized to appoint a Fiscal Agent, whose duty it shall be to inspect and examine into the condition of the accounts of various revenue officers throughout the State, as well as those of the late Republic of Texas and make settlement with the same, and to receive the public moneys collected by them, or that may hereafter be collected by said officer under such instructions as may be furnished to him by the Comptroller of Public Accounts.

Sec. 2. Be it further enacted, That said agent before entering upon duties of said agency, shall give a bond payable to the Governor of the State, for the sum of twenty thousand dollars, with at least three good and sufficient securities to be approved of by the Comptroller of Public Accounts, and shall

take and subscribe the oath prescribed by the Constitution, which, together with the bond, shall be filed in the office of the Comptroller.

Sec. 3. Be it further enacted, That said agent shall receive as compensation, the sum of seventy-five dollars per month for the time actually engaged in said agency, and his necessary travelling expenses.

Approved, March 20, 1848.

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## CHAPTER 136.

An Act to provide for the exchange of books, maps and charts.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Governor of the State be, and is hereby authorized and required to forward to the Librarian of Congress, to the Secretary of State of the United States, to the Secretary of the Treasury of the United States, to the Executive Departments of all the States of the Union, to each Foreign Librarian or Government, with whom a system of literary exchange may be established, and to such associations and societies for the promotion of the arts and sciences as he may deem advisable, copies of all Laws, Judicial Reports, Maps, Charts, and other productions of a Literary, Scientific, or political character, printed or published by order of the Legislature, or at the expense of the State.

Sec. 2. Be it further enacted, That the Secretary of the State be required to safely keep all books, maps, charts, or publications forwarded to or received at his office; the same to constitute a State Library under his control, subject however, to the inspection and use of all officers of the State Government, and both branches of the Legislature.

Sec. 3. Be it further enacted, That the sum of three hundred dollars or so much thereof as may be necessary, be, and the same is hereby appropriated to pay the charge of transportation and such other incidental expenses as may be incurred in carrying this act into effect.

Sec. 4. Be it further enacted, That this act take effect and be of force from and after its passage.

Approved, March 20, 1848.

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CHAPTER 137.

An Act prescribing the punishment for cutting down, carrying away or destroying trees or timber upon any land without the consent of the owner.

Section 1. Be it enacted by the Legislature of the State of Texas, That if any person shall wilfully and knowingly cut down, carry away or destroy any tree or timber, upon any land not his own, without first having the consent of the owner, he shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined in a sum not less than ten dollars, nor more than one hundred dollars.

Sec. 2. That any person guilty of a misdemeanor, as defined in the first section of this act, may be prosecuted for the same, before a Justice of the Peace, or the District Court of the county in which the offence was committed, and any person convicted and fined for any such misdemeanor, shall be committed to the jail of the county until such fines and all costs are paid; Provided, the imprisonment does not exceed ninety days.

Sec. 3. That nothing contained in this act, shall be so construed as to authorize a prosecution against any person for cutting down or carrying away any tree or timber for the purpose of making or repairing any public road, passing over the land from which such tree or timber may have been cut or carried away.

Sec. 4. That all fines that may be collected under the provisions of this act, shall be paid into the County Treasury of the county where the offence was committed, for the use of such county; and a conviction under the provisions of this act, shall not be a bar to a civil suit, or action for damages, by the owner of the land.

Approved, March 20, 1848.

## CHAPTER 138.

An Act making Appropriations for the support of the Government,  
for the years 1848 and 1849.

Section 1. Be it enacted by the Legislature of the State of Texas. That the following sums be, and the same are hereby appropriated, for the service and support of the Government, for the years 1848 and 1849:

For remainder of mileage and per diem pay of the members of the second Legislature of the State of Texas, eighty-seven members, per diem pay of the President of the Senate, and one interpreter, sixteen thousand five hundred dollars;

For salary of the Governor, annually, two thousand dollars;

For salary of Private Secretary, seven hundred and fifty dollars, annually;

For contingent expenses of the Executive Office, annually, four hundred dollars;

For salary of Secretary of State, annually, twelve hundred dollars;

For salary of Clerk of State Department, annually, seven hundred and fifty dollars;

For Contingent Expenses of State Department, annually, four hundred dollars;

For salary of Comptroller of Public Accounts, annually, twelve hundred dollars;

For Book-keeper in Comptroller's Office, annually, eight hundred dollars;

For Clerk in Comptroller's Office, annually, seven hundred and fifty dollars;

For Contingent Expenses of Comptroller's Office, one hundred and fifty dollars, annually;

Stationery and Books for Comptroller's Office, two hundred and fifty dollars, annually;

Postage for Comptroller's Office, two hundred dollars, annually;

Printing for Comptroller's Office, three hundred dollars, annually;

For salary of Treasurer of the State, annually, twelve hundred dollars;

For Contingent Expenses of State Treasurer's Office, one hundred and fifty dollars, annually;



For purchase of Books and Stationery, and for repairs to the Treasurer's Office, one hundred and fifty dollars;

For salary of the Adjutant General, annually, and for closing up the business of the late War and Marine department, one thousand dollars;

For Contingent Expenses of Adjutant General's Office, including Printing, &c., annually, three hundred dollars;

For salary of the Commissioner of the General Land Office, annually, fifteen hundred dollars;

For salary of two Draughtsmen in the General Land Office, each, annually, eight hundred dollars;

For salary of Chief Clerk in the General Land Office, annually, one thousand dollars;

For salary of Translator and Recorder of Spanish Deeds in the General Land Office, annually, one thousand dollars;

For pay of eight Assistant Clerks in the General Land Office, annually, each, seven hundred and fifty dollars;

For purchase of Blank Patents, annually, two thousand dollars;

For Stationery and Books in the General Land Office, annually, five hundred dollars;

For Postage of the General Land Office, three hundred dollars;

For Contingent Expenses in the General Land Office, annually, three hundred dollars;

For salary of the Attorney General of the State, annually, one thousand five hundred dollars;

For Contingent Expenses of Attorney General's Office, one hundred dollars, annually;

For salaries of three Judges of the Supreme Court, annually, two thousand dollars, each;

For pay of Clerk of the Supreme Court, annually, three hundred dollars;

For payment of claims outstanding against the Supreme Court, two hundred and fifty dollars;

For pay of Sheriff for services in attending on the Supreme Court, two hundred dollars;

For Contingent Expenses of Supreme Court, two hundred and twenty-five dollars;

For salaries of eleven Judges of the District Court, annually, seventeen hundred and fifty dollars, each;

For salaries of eleven District Attorneys, annually, five hundred dollars, each;

For payment of the Pension of Joseph Cecil, annually, three hundred dollars;

For payment of Pension of Maria Jesusa Garcia, to present time, and for funeral expenses, seventy-five dollars, which may be drawn by her son, Miguel Garcia;

For payment of Pension of J. C. Neil, annually, two hundred dollars;

For payment of Pension of David F. Webb, annually, one hundred dollars, for two years;

For payment of Pension to disabled seamen, annually, six hundred and twenty-two dollars;

For compensation of Clerks of both Houses of the Legislature, five dollars per day, each;

For compensation of Sergeant-at-Arms, and Door-keepers of both Houses of the Legislature, five dollars per day, each;

For copying and printing the Laws and Journals of the Second Session of the Legislature, eight thousand dollars;

For copying and printing Journals of the First Legislature, three thousand dollars;

And one thousand dollars for the translating and publishing in the German and Spanish Languages, the Constitution and such general laws now in force, as the Governor may deem advisable, in accordance with the provisions of an act, approved 18th April, A. D. 1846;

For the erection and support of a Penitentiary, ten thousand dollars, annually;

For compensation of Messrs. Logan & Sterne, for publishing notices of suits against Colonization Contractors, fifty dollars;

For compensation of Charles De Morse, for publication in the Northern Standard, the case of the State against Charles Fenton Mercer and Associates, one hundred dollars;

For pay and expenses of a Fiscal Agent, one thousand dollars, annually; or, so much thereof as may be necessary;

For pay for County Maps, one thousand dollars;

For the purchase of Stationery, for the use of the next Legislature, to be drawn and disbursed by the Comptroller of Public Accounts, five hundred dollars.

Sec. 2. Be it further enacted, That a sufficient amount is hereby appropriated, to cover the pay and expenses of the late Convention, including the certificates of the members thereof,

upon which drafts were drawn by the late Secretary of the Treasury, on Collectors of Revenue: that the Comptroller and Treasurer, be, and they are hereby, authorized to open an account, and make a proper settlement of a receipt, in the hands of the Treasurer, of the late G. W. Terrell, for six hundred and sixty-six dollars and sixty-seven cents, for his services as District Judge, in the year 1841, by making the necessary charges for the payment thereof and the credit due the Treasurer on the transfer of said receipt and vouchers from his office to that of the Comptroller;

For compensation of Ford & Cronican, for publishing assessments of taxable property, assessed out of the counties wherein the property lies, five hundred dollars;

For compensation of the late Auditor, Charles Mason, for taking care of office, and for occasional reference to records and papers therein, during the years 1846 and 1847, six hundred dollars;

For compensation of the Comptroller of Public Accounts, for extra services in the discharge of the duties, imposed on him in relation to the public debt of Texas, three hundred dollars, annually;

For compensation of Thomas Ward, for taking care of the Capital, and Furniture, until the next biennial session of the Legislature, one hundred dollars;

For Freight on Books and Public Documents, sent to the State of Texas, one hundred dollars;

For compensation of Thomas J. Jennings, for services as Special Associate Judge of the Supreme Court, during the present session of the Court, three hundred dollars.

Sec. 3. Be it further enacted, That one-tenth of the annual revenue of the State, be, and they are hereby set apart for purposes of education, to be drawn from the Treasury in accordance with such laws as may be enacted;

And for the payment for District Maps already received by the Commissioner of the General Land Office, and not paid for, one thousand dollars;

For the transportation and distribution of the Laws passed by this Legislature, to and among the several counties of this State, to be drawn upon the draft of the Secretary of State, fifteen hundred dollars.

Sec. 4. Be it further enacted, That the Judge and District Attorney for the Eleventh Judicial District be allowed to draw

from the Treasury, after the first of April next, the whole amount of their annual salary for the first year, and the Treasurer is hereby directed to respect their drafts for the same.

Sec. 5. Be it further enacted, That this act take effect from and after its passage.

Approved, March 20, 1848.

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## CHAPTER 139.

### An Act to provide for the Assessment and Collection of Taxes.

Section 1. Be it enacted by the Legislature of the State of Texas, That there shall be elected by the qualified voters of every county within the State of Texas, on the first Monday of August, 1848, and every two years thereafter, until otherwise provided by law, an Assessor and Collector of Taxes, who shall hold his office for and during the term of two years, and until his successor shall have been qualified; and should, from any cause, the office of Assessor and Collector become vacant, before the expiration of such term, it shall be the duty of the County Court of the county in which such vacancy shall occur, to appoint an Assessor and Collector of Taxes, who shall be qualified in the same manner, and subject to a like bond as the Assessor and Collector elected; and the Assessor and Collector so appointed, shall hold his office for and during the unexpired term of his predecessor, and until his successor shall have been qualified.

Sec. 2. That every Assessor and Collector of Taxes shall, within twenty days after he shall have received notice of his election or appointment, and before entering upon the execution of the duties of his office, give a bond to the Governor of the State and his successors in office, in a sum which the County Court shall consider double the probable amount of the State Tax to be assessed in the county for one year, with at least three good and sufficient securities, to be approved by the County Court of his county, and shall take and subscribe the oath prescribed by the Constitution, which, together with said bond, shall be recorded in the office of the

County Clerk of said county, and deposited in the office of the Comptroller of Public Accounts; which bond shall be renewed each and every year, during the August term of the County Court; such bond shall be deemed to extend to the faithful execution of the duties of said Assessor and Collector of Taxes, and shall not become void upon the first recovery, but suit may be had thereon until the whole amount thereof be recovered.

Sec. 3. That the Assessors and Collectors of Taxes shall give a like bond, with the like conditions, to the Chief Justices of their respective counties, and their successors in office, in a sum not less than double the probable amount of the county tax to be assessed in the county for one year, which bond shall be recorded and deposited in the County Clerk's Office of the county, and shall be renewed in each and every year during the August term of the County Court, which bond shall not become void upon the first recovery; but suit may be had thereon until the whole amount thereof be recovered.

Sec. 4. That the Assessors and Collectors of the several counties of this State, shall severally prepare an assessment roll for their respective counties, in which they shall set down, in separate columns, in alphabetical order, the names of the taxable inhabitants thereof, the amount and description of the property taxed, real and personal, the value thereof, and the amount of taxes due thereon; for which purpose he shall, between the first days of January and June, call upon each person living in his county, for a list of his or her taxable property, and of all property subject to taxation, held by such person as trustee, guardian, executor, administrator, agent, or attorney: Provided, That, when the Assessor and Collector shall call at the usual place of abode of the party liable to taxation, in the absence of such person, a written or printed notice to render such list to the Assessor and Collector, shall serve in lieu of personal notice.

Sec. 5. That whenever any person is assessed as trustee, guardian, executor, administrator, agent, or attorney, it shall be done by the addition to his name of his representative character, and such assessment shall be carried out in a separate line from his individual assessment.

Sec. 6. That if any person, when called upon by the Assessor and Collector of Taxes of the county in which such person resides, shall fail or refuse to render a list of his or her property, real or personal, or of that held as administrator, ex-

ecutor, guardian, agent, or attorney, which is liable to taxation, such person shall be liable to a fine of not less than ten or more than five hundred dollars, for the use of the State or county, as the case may be, to be recovered before any court of competent jurisdiction; and it shall be the duty of the Assessor and Collector of every county, to report all such cases to the proper court, and to attend there as a witness to prove such failure or refusal.

Sec. 7. That the list required under the fourth section of this Act, shall contain a description of all the taxable property in his or her own right or held as guardian, executor, administrator, agent or attorney, on the first day of January for the current year, verified by the oath of the party returning the same, made and subscribed before the Assessor and Collector of Taxes, or any Justice of the Peace of the county wherein such parties reside; upon which property so returned, the Assessor and Collector and the party rendering the same, shall proceed to assess the value; in case they cannot agree as to the amount thereof, each shall have the right to select a respectable freeholder to determine the same; and in case of disagreement between the parties so selected, a third shall be chosen by them, and the decision of a majority shall be final.

Sec. 8. That it shall be the duty of each Assessor and Collector of this State, to make out a list of all taxable property in his county, which has not been given in for assessment according to the provisions of this act; and for that purpose to examine the records and maps of the county; assessing all property in the name of the owner, if he be known, and, if not, then it shall be assessed by a description of the property; if lands, it shall be described by the number of the tract, quantity of acres, and to whom patented, or to whom surveyed for patent; and the value of all such property shall be determined by the Assessor and Collector, who shall appraise the same at its cash valuation, and no more: Provided, That in all new counties created at the present session of the Legislature, the taxes shall be assessed and collected in the county, or counties from which the territory composing such new county was taken, until such new county is organized in conformity to law.

Sec. 9. That the Assessor and Collector of Taxes, shall, on or before the first day of July, in each and every

year, make out in alphabetical order, three full and complete copies of his assessment roll, setting forth in separate columns, the different descriptions of taxable property, real and personal, rendered for taxation, owned or held by any person, firm, or corporate body in his county, and the value thereof, and in a separate portion of his assessment, in like manner, the taxable property of non-residents, not rendered for taxation, and the property where the owner is unknown, one copy of which he shall retain for his own use; one he shall deposit in the office of the Clerk of the County Court of his county; and one he shall cause to be deposited in the office of the Comptroller of Public Accounts, on or before the first day of September in each and every year.

Sec. 10. That if any Assessor and Collector of Taxes shall wilfully fail or refuse to make out and return his assessment roll, as required by the provisions of this act, or shall make out and return an unfair or false assessment roll, he shall in each, or either case, forfeit and pay, for the use of the State or county, as the case may be, double the amount of the damages sustained by the State or county, by the malfeasance of such Assessor and Collector, to be recovered of him and his securities in any court of competent jurisdiction.

Sec. 11. That whenever any Assessor and Collector shall ascertain that any taxable inhabitants and property have not been assessed for any past year, he shall assess the same in his next assessment roll, at the same rate under which such inhabitant and property should have been assessed for such year, and such assessment shall be entered at the end of the assessment roll, stating the years for which such inhabitant and property should have been assessed; and the taxes thereon shall be collected in the same manner as other assessments.

Sec. 12. That every Assessor and Collector of Taxes, in the execution of the duties of his office, shall use the forms and pursue the instructions of the Comptroller of Public Accounts; and upon producing to the Comptroller, after his assessment has been completed, a certificate from the County Court of his county, that the assessment made and the roll deposited in the County Clerk's office of his county is a fair, correct and true assessment of his county, such Assessor and Collector shall receive a compensation, on the amount of the assessment for the use of the State of eight per cent., upon all sums of one thousand dollars and less; five per cent.

upon all sums less than two thousand dollars and more than one thousand dollars; four per cent. on all sums less than five thousand dollars and more than two thousand dollars; three per cent on all sums of less than ten thousand dollars and more than five thousand dollars; and for all sums more than ten thousand dollars, one per cent. on the amount thereof, and shall receive upon the amount of the assessment made for the county one-half of the like per cent.

Sec. 13. That every Assessor and Collector of Taxes shall, so soon as he shall have made out and returned the assessment roll of his county, as required by the provisions of this act, proceed to collect the Taxes therein mentioned, and for that purpose shall call at least once upon every person taxed, or on the agent or attorney of such person, or at the usual place of his or her residence, if within the county, and demand the payment of the taxes charged upon his person or property.

Sec. 14. That if any person shall fail or refuse to pay the tax imposed upon him and his property, by law, until the first day of November, in each year, the Assessor shall levy, by virtue of his tax list, upon so much property, liable to taxation, belonging to such person, to be found in his county, as may be sufficient to pay his or her taxes; and in case such property is about to be removed out of the county, the Assessor and Collector shall, in like manner, proceed to take into his possession, so much property as will pay the taxes assessed, and costs of collection.

Sec. 15. That every Assessor and Collector of Taxes shall give notice of the time and place of the property so levied upon to be sold, at least thirty days previous to the day of sale by advertisement in writing, to be posted up at the court-house door of his county, and in two other public places in his county; and such sale shall take place at the court-house door of the county in which the assessment is made, by public auction, and if the property so levied upon prove to be insufficient to satisfy the amount of taxes due and costs of sale, the Assessor and Collector shall levy upon and sell so much other taxable property belonging to such person as will be sufficient to satisfy such taxes, in the manner prescribed in the preceding part of this section; after paying the taxes, the surplus, if any, shall be paid over to the person for the payment of whose taxes the levy and sale shall have been made.



Sec. 16. That the Assessor and Collector shall, when any property has been sold for the payment of taxes, make and execute a deed for said property to the person or persons purchasing the same: which, when recorded according to law, shall be prima facie evidence that all the requisitions of the law have been complied with in making such sale: Provided, however, That the owner of such property shall have the right to redeem the same at any time within twelve months of the day and date of the sale thereof, upon the payment of double the amount of the taxes for which the same was sold, and costs of sale.

Sec. 17. That it shall be lawful for any person or persons who may own lands or other property liable to taxation, situated in any other county than that in which such person may reside, to pay all taxes due upon the same to the Comptroller of Public accounts; Provided, however, That the taxes of such persons be paid to the said Comptroller, or to the Assessor and Collector of the county in which the property may be situated, on or before the first day of November in each year; and it shall be the duty of the Comptroller to furnish a list of all such taxes so paid to him, together with the names of the persons paying the same, to the Assessor and Collector of the county for which such taxes were paid.

Sec. 18. That it shall be the duty of the Assessor and Collector of Taxes, or the Comptroller of Public Accounts, as the case may be, to receive the tax on the part of any lot, piece, or parcel of land charged with taxes: Provided, The person paying such taxes shall furnish the Assessor and Collector, or the Comptroller of Public Accounts, with a particular specification of such part, or if the part on which the tax shall be so paid be an undivided share, shall state to the Assessor and Collector, or Comptroller of Public Accounts, as the case may be, who the owner of such share is, that it may be excepted in case of sale for tax on the remainder.

Sec. 19. That the Assessors and Collectors of Taxes in the State of Texas shall receive in payment of all taxes and revenue imposed according to law, all coins made current by the laws of the United States, and the Exchequer Bills of the late Republic of Texas.

Sec. 20. That it shall be the duty of each and every Assessor and Collector in this State, to pay over all moneys collected by him for the use of the State, into the Treasury thereof, on

or before the first day of December in each and every year, and on or before the same day in each and every year, to pay over into the Treasury of the county the moneys collected for the use of the county.

Sec. 21. That each and every Assessor and Collector of Taxes shall, annually, by the fifteenth day of October, make out three full and correct lists of all delinquent tax payers residing in his county, and the amount of taxes due by each; and also three descriptive lists of all taxable property in his county on which the taxes remain unpaid, belonging to non-residents, who shall in said list be named if known; if unknown, shall be so described, one of each of which lists shall be filed in the office of the Clerk of the County Court of his county, another shall be posted up at the court house door of said county, and the other shall be transmitted to the Comptroller of Public Accounts; but upon a settlement, no allowance shall be made for insolvent persons, unless the Assessor and Collector shall present a list thereof, certified to by the County Court of his county, as being a correct copy of the list of insolvent taxed persons filed in the office of said court, and said Assessor and Collector shall thereafter collect, if practicable, the taxes due from the delinquents therein specified, and make return thereof immediately, as required by law.

Sec. 22. That every Assessor and Collector of taxes for the State, on the settlement of his accounts with the Comptroller of public accounts, shall be entitled to a compensation on the amount by him collected and paid into the Treasury for the use of the State, of eight per cent, on all sums of a thousand dollars and less, five per cent, on all sums less than two thousand dollars and more than one thousand dollars; four per cent, on all sums less than five thousand dollars, and more than two thousand three per cent, on all sums less than ten thousand dollars, and more than five thousand dollars, and one per cent, on all sums over ten thousand dollars; and on a settlement of his accounts with the County Treasurer of his county, one half of the like per cent. on the amount collected by him and paid into the Treasury for the use of the county.

Sec. 23. That if any Assessor and Collector of taxes shall demand and receive of any person more than lawful taxes, said officer shall forfeit and pay (upon conviction before any Court of competent jurisdiction) to the use of the party aggrieved, five times the amount so demanded and received; and shall be

subject to presentment and indictment by the Grand Jury for malfeasance, and upon conviction, shall be fined in a sum of not less than ten nor more than fifty dollars, to be paid when collected into the county Treasury.

Sec. 24. That if any Assessor and Collector shall fail to pay into the State Treasury the amount of taxes by him collected for the use of the State on or before the day on which the same is made payable by the provisions of this act, and to pay into the treasury of his county, the entire amount collected by him for the use of the county, such Assessor and Collector, and his securities, shall be liable to be sued upon their bond or bonds, for the damages sustained by the State or county, and shall pay the cost and charges of such suit, whether the ultimate decision be in his favor or against him.

Sec. 25. That any person wishing to engage in any vocation or calling, on which a license tax is imposed by law, shall, before engaging therein, pay to the Assessor and Collector of the county in which such vocation or calling is intended to be pursued, the amount of the license tax imposed for the use of the State, and to the County Treasurer the tax imposed for the use of the county, the receipts whereof shall entitle such person on application to the County Clerk, to a license to pursue such vocation or calling during such period, authorized by law, as may be covered by the amount of said receipt; Provided, that when a license to pursue any vocation is desired for a shorter period than one year, and not less than four months, the Assessor and Collector, or the County Treasurer, as the case may be, may receive the amount required in proportion to the time for which such license is desired; and on filing the receipt of the Assessor and Collector, or County Treasurer, as the case may be, the Clerk shall issue, a license for the time corresponding with the amount which has been paid.

Sec. 26. That when any person, hawkers and pedlars excepted, who shall fail or refuse to pay the tax contemplated by the preceding section of this act, before engaging in any vocation or calling on which such tax is imposed, and obtain license therefor, it shall be the duty of the Assessor and Collector of the county, or the County Treasurer, as the case may be, to sue out an attachment before a Justice of the Peace, for the amount of the tax for one year upon such vocation or calling, so practiced in contravention of law, and levy upon any of the property of the delinquent tax payer sub-

ject to taxation; and it shall be the duty of each and every Justice of the Peace to issue all such writs and try the same, in accordance with the provisions of the law regulating attachments in other cases, whenever application shall be made in due form by the Assessor and Collector of taxes or the County Treasurer of the county as the case may be, provided that no attachment bond shall be required of said Assessor and Collector, or County Treasurer.

Sec. 27. That to enable the Assessor and Collector to ascertain unrendered property in the several counties, it is hereby made the duty of the Clerks of the County Courts, and the County and District Surveyors to exhibit the records and maps in their charge to the Assessor and Collector of taxes; and the refusal to do so by either of the said County Clerks, or District or County Surveyors, such officer so refusing, shall incur the penalty of fifty dollars, recoverable before any court having jurisdiction or cognizance thereof, with costs of suit: which penalty when collected shall be paid, the one half into the State Treasury and the other half into the Treasury of the county wherein the penalty was incurred.

Sec. 28. That if from any cause the direct taxes of any county are not assessed and collected within the periods mentioned in this act, the Comptroller of Public Accounts shall appoint some other time, within which said taxes shall be assessed and collected; and no person shall suffer any of the penalties herein imposed, from any failure caused by such unavoidable change of time; but any persons who shall fail to render their assessment lists, and pay their taxes within the period so designated by the Comptroller, shall incur all the penalties imposed by this act.

Sec. 29. That if from any cause, the sale of property seized for taxes, shall not take place, at the time first appointed, the Assessor and Collector shall appoint some other time, give the like notice and proceed to sell such property in the manner prescribed in the first instance by this act.

Sec. 30. That if any officer is sued or prosecuted in consequence of proceedings made by him under the authority of this act, or any law in force for the collection of revenue, it shall be lawful for him to plead the general issue and give this act, or the law under which he has proceeded, as an especial matter in evidence.

Sec. 31. That when any lands or tenement shall be adver-

tised for sale by the Assessor and Collector of taxes, for any taxes or other dues accruing to the State, and such lands or tenements cannot be sold for the want of bidders, it shall be the duty of the Assessor and Collector to bid off the same for the State, for the amount of taxes so due, and when such lands are not redeemed within one year from the date of sale, by the owner or owners, or some other person paying the amount of such taxes and costs of sale, and one hundred per centum thereon: it shall then become public domain and subject to location by any person holding a legal land warrant against the State, by such person paying the amount of tax for which such land was sold and costs of sale with one hundred per centum thereon. And it shall be the duty of the Commissioner of the General Land Office to issue patents on all surveys of land sold in conformity of this act, on a legal return and showing being made to him of the same.

Sec. 32. That if any person shall peddle any goods, wares or merchandize in any county in this State, without first obtaining a license from the Clerk of the County Court of such county, it shall be the duty of the Assessor and Collector to seize so much of the goods, wares and merchandice so peddled, or any other property subject to sale by execution, belonging to such person, and after giving ten days notice by advertisement in at least three public places in his county, he shall proceed to sell at the court house door of his county, to the highest bidder, for cash, so much of said property so seized and levied upon as will be of value sufficient to pay the license tax for one year and the costs of sale, and the Assessor and Collector shall be entitled to the same fees and commissions that Sheriff's are entitled by law to receive upon sales by execution.

Sec. 33. That if any Assessor and Collector shall fail or refuse to surrender up his tax roll to his successor in office, upon his application, he shall upon conviction in the District Court, be fined in such sum as the court may adjudge; not less than fifty dollars.

Approved, March 20, 1848.

## CHAPTER 140.

Joint Resolution instructing our Senators and requesting our Representatives to procure the passage of an act of Congress concerning Military Posts on the frontier, and relative to intercourse with Indians.

Section 1. Be it resolved by the Legislature of the State of Texas, That our Senators in Congress be instructed and our Representatives requested to use their influence for procuring the passage of an act establishing a chain of Military Posts in advance of the settlements between Red River and the Rio Grande, and that said Posts shall be removed from time to time, as the settlements advance.

Sec. 2. That we also recommend that in any Congressional enactment concerning Texas Indians, suitable provisions may be incorporated, requiring the Indian agents of the United States, and the Commandant of the troops in the Government service, stationed on our frontier to confer with the Governor of Texas that they may jointly co-operate in pursuing such policy as may best tend to the preservation of the present friendly relations of the Indians and the protection of the rights of our citizens.

Sec. 3. That the Governor be requested to transmit a copy of these resolutions to each of our Senators and Representatives in Congress.

Approved, March 20, 1848.

## CHAPTER 141.

An Act to legalize certain headright certificates issued by George W. Miles, former Chief Justice of Liberty County.

Whereas, the seventh section of an act entitled "an act to authorize the holding of the District Court in three places in Liberty County and for other purposes, approved, January 6th, 1844, was construed by G. W. Miles, former Chief Justice of said county to authorize him to act in his official ca-

capacity without the co-operation of the Associate Justices; and, whereas, acting under that construction of the aforesaid law, land certificates have been issued by the said Chief Justice and Clerk, on the proper proof being made: Therefore.

Section 1. Be it enacted by the Legislature of the State of Texas, That all land certificates issued by G. W. Miles former Chief Justice of Liberty County, after the passage of the above named law, and which have been issued in all other respects in conformity to law, and have been properly returned to the General Land Office, as genuine, shall have the same force and effect, as like certificates issued by the Chief Justice and the Associate Justices.

Approved, March 20, 1848.

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## CHAPTER 142.

An Act to change the Northern boundary line of Limestone County.

Section 1. Be it enacted by the Legislature of the State of Texas, That from and after the passage of this act the Northern boundary line of Limestone County shall be as follows: Commencing at the mouth of Aquilla creek where said creek empties into the Brazos River; thence North eighty one degrees East, until it intersects the present boundary line of said county at or near the Tehuacana hills; thence North, sixty degrees East with said line to the Trinity River.

Approved, March 20, 1848.

## CHAPTER 143.

An Act to provide for ascertaining the debt of the late Republic of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Auditor and Comptroller of Public Accounts as soon as practicable, after the passage of this act, shall cause six months notice to be given, by publication in some newspaper, published weekly in the city of Austin, New Orleans, Washington city, and New York requiring all persons having any claim or demand for money, against the late Republic of Texas, to present the same to the Auditor and Comptroller of Public Accounts, on or before the second Monday in November, 1849; and all claims that shall not be presented on or before that time shall be postponed.

Sec. 2. Be it further enacted, That it shall be the duty of the Auditor and Comptroller, jointly to receipt, under their seals of office, for all claims presented to them, setting forth the par value thereof, at the time the same accrued, or were issued; the name of the person to whom the debt accrued, the date and amount thereof. The Auditor and Comptroller shall each keep a correct list in books, kept for that purpose separately; First, the Audited or ascertained claims; such as stock bonds, Treasury notes, military scrip, or any other audited or ascertained claim. Second, all claims with sufficient evidences and vouchers to authorize them to audit, under the late Republic of Texas. Thirdly, such claims, as are not sufficiently authenticated by vouchers. It is hereby made the duty of the Auditor and Comptroller, to report to the next session of the Legislature, for its action.

Sec. 3. Be it further enacted, That it shall be the duty of the Comptroller and Auditor, jointly to report, to the next biennial session of the Legislature, for final adjustment the whole amount and character of the Public Debt ascertained, according to the provisions of this act, together with such suggestions, concerning the same, as they may deem just and proper; and they shall likewise report semi-annually, from the first of May, 1848, to the Governor, the amount and character of claims presented and filed in their office; and it shall be the duty of the Governor to cause a synopsis of the report to be printed in some newspaper at the seat of Government in the State.

Sec. 4. Be it further enacted, That it shall be the duty of the



Sec. 4. Be it further enacted, That it shall be the duty of the Auditor and Comptroller of Public Accounts to classify all claims presented under the provisions of this act, reducing the same to the actual par value which may have been realized by the late Republic, and may report such further classification, as they may deem best calculated to preserve the rights of the State, and to do equity to the holders of the claims; and the classification, and rate of payment, recommended by the Auditor and Comptroller, shall be subject to the revision, amendment and ratification of the next Legislature; and that this act take effect from and after its passage.

Approved, March 20, 1848.

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#### CHAPTER 144.

An Act to provide for the more certain collection of the Taxes for the years 1846 and 1847.

Section 1. Be it enacted by the Legislature of the State of Texas, That if any person against whom any tax has been assessed, for the years 1846 and 1847, shall fail to pay the same on or before the first day of April of the present year, it shall be the duty of the proper assessor and collector, to proceed to seize and sell the property of such person, giving notice in accordance with the provisions of the 18th section of an act to provide for the assessment and collection of taxes, approved 13th May, 1846, such sales may take place at any time between the first of April and the first of July of the present year.

Sec. 2. That the Comptroller of Public Accounts, after making the comparison of assessment rolls, as required by law, shall direct sales to be made of so much of the property of non-residents or of unrendered property on which the taxes have not been paid for the years 1846 and 1847, as will satisfy the taxes owing, and costs of process, which sales when made shall be as valid as though the property had been advertised in accordance with the 15th section of the above recited act, which section is hereby repealed.

Sec. 3. That each Assessor and Collector shall be allowed two dollars as costs for each sale of property as directed by this

act, together with all reasonable costs for seizing and advertising the same, which shall be made out of the property thus sold.

Sec. 4. That this act take effect from and after its passage.

Approved, March 20, 1848.

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## CHAPTER 145.

An Act to provide for vesting in the State escheated property.

Section 1. Be it enacted by the Legislature of the State of Texas, That if any person die seized of any real or possessed of any personal estate, without any devise thereof, and having no heirs, or where the owner of any real or personal estate, shall be absent for the term of seven years, and is not known to exist, such estate shall escheat to and vest in the State.

Sec. 2. That when the District Attorney shall be informed or have reason to believe that an executor under the will, has not accepted the trust, and that no administrator, with the will annexed, has been appointed, and where said Attorney shall discover that no letters of administration on the estate of an intestate, who has died without heirs, has been granted, he shall file a petition in behalf of the State, in the District Court of the county where such succession is required to be opened, according to the laws regulating the place of opening successions, which petition shall set forth a description of the estate, the name of the person last lawfully seized or possessed of the same; the names of the tenants, or persons in actual possession, if any, and the names of the persons claiming the estate, if any such are known to claim, and the facts and circumstances in consequence of which such estate is claimed to have escheated, praying for a writ of possession for the same, in behalf of the State.

Sec. 3. That such court shall award and issue scire facias against such person, bodies politic or corporate, as shall be alleged in such petition to hold possession or claim such estate, requiring them to appear and show cause, why such estate shall not be vested in the State, at the next term of the court.

Sec. 4. That such scire facias shall be served ten days before the return day thereof; and the court shall make an order, setting forth briefly the contents of such petition, and requiring all persons interested in the estate to appear and show cause at the next term of said court why the same should not be vested in the State, which order shall be published four weeks in some newspaper printed in the State.

Sec. 5. That all persons, bodies politic, and bodies corporate named in such petition, as tenants or persons in actual possession or claimants of the estate, may appear and plead to such proceedings, and may traverse the facts stated in the petition, or the title of the State to the lands, and tenements therein mentioned, at any time on or before the third day after the return of scire facias, and any other person claiming an interest in such estate, may appear and be made a defendant, and plead by motion for that purpose in open court, within the time allowed for pleading.

Sec. 6. That if no person after notice as aforesaid, shall appear and plead within the time prescribed by law, then judgment shall be rendered by default in behalf of the State.

Sec. 7. That if any person appear and deny the title set up by the State, or traverse any material fact in the petition, issue shall be made up and tried as other issues of fact, and a survey may be ordered as in other cases where the titles or boundaries of land are drawn in question.

Sec. 8. That if after the issue and trial, it appears from the facts found or admitted, that the State hath good title to the estate, real or personal, in the petition mentioned or any part thereof, judgment shall be rendered, that the State be seized or possessed thereof, and at the discretion of the Court, recover costs against the defendants.

Sec. 9. That if it appear that the State hath no title in such estate, the defendant shall recover his costs, to be taxed and certified by the Clerk and the Comptroller of Public Accounts, shall, on such certificate being filed in his office, issue a warrant therefor on the Treasury of the State, which shall be paid as other demands on the Treasury.

Sec. 10. That when any judgment shall be rendered, that the State be seized or possessed of any estate, such judgment shall contain a description thereof, and shall vest the title in the State.

Sec. 11. That a writ shall be issued to the Sheriff of the

proper county, commanding him to seize such estate, vested in the State, and if the same be personal property, or real estate, he shall dispose thereof at public auction, in the manner provided by law for the sale of property under execution.

Sec. 12. That the District Attorney for the District, shall cause two copies of the record and account of sale to be exemplified under the seal of the Court, and shall cause one of the same to be deposited in the office of the Comptroller of Public Accounts, and the other to be recorded in the office of the Recorder of the county in which the property was sold, and such record shall preclude all parties and privies thereto, their heirs and assigns.

Sec. 13. That any party who shall have appeared to any proceedings, and the District Attorney, on behalf of the State, shall have the right to prosecute an appeal or writ of error upon such judgment.

Sec. 14. That the Comptroller shall keep just accounts of all moneys paid into the Treasury and of all lands vested in the State under the provisions of this act.

Sec. 15. That if any person appear, after the death of the testator or intestate, and claim any money paid into the Treasury under this act, as heir, or devisee, or legatee thereof, he may file a petition in the District Court for the county where the estate was sold, stating the nature of his claim, and praying that such money may be paid to him, a copy of which petition shall be served on the District Attorney for the District, at least twenty days previous to the return day of the process, who shall put in an answer to the same.

Sec. 16. That the Court shall examine the claim and the allegations and proofs, and if they shall find that such person is an heir, devisee, legatee or legal representative, whether citizen or foreigner; such court shall make an order, directing the Comptroller to issue his warrant on the Treasurer for the payment of the same, but without interest or costs, a copy of which order, under the seal of the Court, shall be a sufficient voucher for issuing such warrant, and the same proceedings shall be instituted for the recovery of any money or property heretofore deposited with the Treasurer or Comptroller in accordance with the laws heretofore existing.

Sec. 17. That it shall be the duty of the District Attorney, to examine the proceedings in successions, heretofore opened in any Probate Courts in their Districts, and if it appear that any

Clerk of the Probate Court, any executor or administrator, has failed to pay over to the Treasurer of the late Republic any moneys or funds, in the manner heretofore provided by law, or has failed to deposit any title papers to land, which have not been claimed by any heir, devisee, or legal representative, he shall notify such person to pay and deliver over the same to him, according to the provisions of this act, and on failure of such persons so to do, institute legal proceedings against him, to carry into effect the object of this act.

Sec. 18. That all property escheated under the provisions of this act, shall remain subject to the disposition of the State, as may hereafter be prescribed by law.

Sec. 19. That all laws and parts of laws conflicting herewith, be and the same are hereby repealed.

Approved, March 20, 1848.

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#### CHAPTER 146.

An Act supplementary to "an act for the further organization of Henderson County," approved March 14, 1848.

Section 1. Be it enacted by the Legislature of the State of Texas, That the time specified in the second section of this act to which this is a supplement, for the election of the County Seat of Henderson County, be extended to the first Monday in July next; and that this act take effect from and after its passage.

Approved, March 20, 1848.

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#### CHAPTER 147.

An Act requiring the Counties of Polk and Tyler to pay a portion of the debt of Liberty County from which they were taken.

Section 1. Be it enacted by the Legislature of the State of Texas, That the counties of Polk and Tyler taken from and

formed out of the former territory of Liberty county, shall not be exempt from their portion of the debt due by the former county of Liberty, but shall assume and pay so much of the old debt of the county of Liberty, contracted previous to a division of the same, as was due to any person or persons residing within the limits of their respective counties at the time of such division: provided, that if the said debts or liabilities should have been transferred by the original holder to any person or persons residing in any other county, that then and in that case, the same shall be paid by the county in which said original holder or claimant of the debt was living at the time of the organization of the said counties of Polk and Tyler.

Sec. 2. Be it further enacted, That all taxes, dues and demands due and owing to the county of Liberty by citizens of the county of Polk upon property situated within the limits of Polk county, shall accrue and be payable to the county of Polk; and in like manner all taxes, dues and demands, due and owing to the county of Liberty by citizens of Tyler county, upon property situated in the limits of said county of Tyler shall accrue and be payable to the county of Tyler, and all such taxes, dues and demands, shall be collected by the proper officers of the counties of Polk and Tyler respectively, and paid into the county Treasuries of said counties in like manner as the same could have originally been collected and paid into the county Treasury of Liberty county.

Sec. 3. Be it further enacted, That the former collector of taxes for the county of Liberty, or whoever may have the same in possession shall deliver to the Assessors and Collectors of the counties of Polk and Tyler respectively, a list of the names of all persons residing in said counties, who may owe county taxes, showing the amount due by each, and the year or years for which the same may be due and owing.

Approved, March 20, 1848.

CHAPTER 148.

An Act to authorize and require the Governor to employ counsel to represent the State in suits and actions wherein the State may be interested that may be taken to the Supreme Court of the United States.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Governor be and he is hereby authorized and required to contract with, and employ competent counsel to represent the interest of the State in all suits and actions having for their object the establishment of any land certificates issued by the Republic of Texas and not recommended as genuine and legal claims by the commissioners appointed under the act to detect fraudulent land certificates, and to provide for issuing patents to legal claimants, and also, all suits and actions involving the constitutionality of the revenue laws of the late Republic in all cases where any of said suits or actions may be taken to the Supreme Court of the United States, and all other cases involving the rights of the State of Texas that may be carried to the Supreme Court of the United States.

Sec. 2. That the sum of four thousand dollars be, and the same is hereby appropriated for the purpose of carrying the foregoing act into effect, and that the Comptroller shall draw his warrant on the Treasurer in favor of the person or persons who may be employed by the Governor under the provision of the foregoing act, for such sum or sums as he or they may be entitled to under his or their contract with the Governor, after such services have been rendered.

Approved, March 20, 1848.

## CHAPTER 149.

## M E M O R I A L .

To his Excellency, the President of the United States:

The Memorial of the Legislature of the State of Texas, in behalf of sundry citizens whose property was destroyed by the armies of Mexico, during the revolution.

Your memorialists would most respectfully represent unto your Excellency: That, as might have been anticipated, the calamities of the Texian revolution, fell unequally upon particular individuals, and the most exposed sections of the country; that in the line of march adopted by the Mexican armies in 1836, the property of every citizen was seized upon and appropriated by a rapacious soldiery, evincing at every step the wanton ruin incident to barbarian warfare: And after the capture of Santa Anna, and the defeat of his forces by the issue of the battle of San Jacinto, the Mexican government continued to carry on a still more barbarous and unjustifiable warfare, by making predatory incursions into the country: These incursions consisting of frequent and unexpected irruptions, promiscuous plunder and rapid retreats, differed in no respect from those of the savage Indians, by whom we were then surrounded: These had their origin in the basest conceivable motives, to wit: In the desire to gratify their revenge and their rapacity, motives which every civilized nation upon the globe would be ashamed to avow. So unexpected were these descents, and so rapid their retreats, that it was impossible to prepare for their reception or to punish them for numerous injuries which they wantonly inflicted.

The condition of Texas at the time of annexation, was such as to leave no doubt as to her ability to maintain her independence. This was not only conceded, but positively avowed on the part of the United States, during every stage of the negotiations which preceded and led to annexation. It is further apparent, from the implied acknowledgment of Mexico herself, contained in her proffer to acknowledge our separate nationality: And hence it would be but reasonable to conclude, that Texas would ere long have been in a position to force from Mexico the acknowledgement of her independence, and to cause to be inserted,



a stipulation in the treaty of peace providing for the full indemnity of her injured citizens. She divested herself of all these advantages and rights, when she surrendered her separate existence and became a member of the American Union. And since, so far as Texas is concerned, this may be regarded as the same unfinished war; since during its pendency, her sovereignty in a national point of view has merged in that of the United States. Since the latter has assumed the position of the former in relation to it, surely she should feel the same moral obligation resting upon her, to provide for the remuneration of those injured citizens, just as though the war had been carried on from its commencement by the Government of the United States. This, Texas would have had the power to do, and would have been in duty bound to do, had she terminated the war as a separate and independent nation. But the relations of Texas have so changed by annexation, that she can now make no treaty stipulations on the subject; and unless their remuneration is provided for by the government of the United States, they will never be remunerated at all. It would surely not be just to leave unprovided for the meritorious claims of those citizens, who have been longest engaged in the war—who have shared its dangers and borne its calamities.

Aside from these considerations, the inducements held out to Texas, and the obligation assumed on the part of the United States, continued by the correspondence during the pendency of the proffer for annexation, clearly show, that the rights and interests of the Texian sufferers will not be forgotten, nor regarded with indifference by the Executive government of the Union, and especially by your Excellency. Taught by the pledges then given, that those rights would be held sacredly and effectually protected, whenever the occasion might arise, your memorialists pray that your Excellency will take into consideration, the subject matter of this memorial, and cause its object to be carried out by proper provisions in the contemplated treaty with Mexico.

Resolved by the Legislature of the State of Texas, That the Governor be and he is hereby requested to transmit copies of this memorial and resolution, to the President of the United States, and to each of our Senators and Representatives in Congress.

Approved, March 20, 1848.

## CHAPTER 150.

## An Act to define the boundaries of Travis County.

Section 1. Be it enacted by the Legislature of the State of Texas, That the boundaries of Travis County shall be extended as follows, to wit: Commencing at a point on the Colorado River, where the dividing line between Bexar and Travis county crosses the same; thence up said River to the mouth of the Red Fork of the Colorado; thence North, fifteen degrees West, to the dividing ridge between the Colorado and the Brazos; thence down the dividing ridge, to the point where the lower line of Bexar County intersects said divide; thence with said line to the place of beginning.

Sec. 2. Be it further enacted, That nothing contained in this act, shall effect any location or survey made in Bexar land District.

Sec. 3. That this act be in force from and after its passage.

Approved, March 20, 1848.

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CHAPTER 151.

## PREAMBLE AND JOINT RESOLUTIONS.

Whereas, The State of Texas has never parted with jurisdiction over any of her territory; And whereas, Santa Fe is a part of the integral territory of the State of Texas; And whereas, it is believed the people of Santa Fe have attempted to establish a separate government, which, if the attempt should be successful, would be in direct violation of the rights of Texas: Therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That our Senators be instructed, and Representatives requested, to lay this subject before the proper authorities of the United States, and to use their utmost endeavors to have such measures taken by the Government of the United States,

as will secure Texas from any encroachment upon her rights by the people of Santa Fe.

Sec. 2. Be it further resolved, That our Senators be further instructed to oppose any treaty with Mexico which may provide for lessening the boundaries of Texas, as established by an act, to define the boundaries of the Republic of Texas, approved December 19, 1836.

Sec. 3. Be it further resolved, That the Governor of the State is hereby authorized and required to issue his proclamation to the people of Santa Fe, to organize their county under the laws of the State of Texas; and that he also request the President of the United States, to issue orders to the military officers stationed in Santa Fe, to aid the officers of Texas in organizing the county of Santa Fe, and the eleventh Judicial District of the State of Texas, and in enforcing the laws of this State, if it should be necessary to call upon said officers of the United States, to put down any resistance to the laws of Texas.

Sec. 4. Be it further resolved, That the Governor be requested to forward a copy of this preamble and joint resolution, to each of our Senators and Representatives in Congress.

Approved, March 20, 1848.

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## CHAPTER 152.

### An Act concerning Crimes and Punishments.

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| 1st. Of offences against the State.                      | 2nd. Of offences against the life or    |
| 3d. Of offences against property.                        | person.                                 |
| 5th. Of offences against public justice.                 | 4th. Of forgery and counterfeiting.     |
| 7th. Of offences against decency, chastity and morality. | 6th. Of offences against public peace.  |
|  | 8th. Of offences against public policy. |

### OF OFFENCES AGAINST THE STATE.

Section 1. Be it enacted by the Legislature of the State of Texas, That if any person owing allegiance to this State, shall levy war or conspire to levy war against the same, or shall in

any way give aid and comfort to the enemies of this State and shall be thereof convicted either upon confession in open Court, or by the testimony of two or more witnesses to the same overt act of treason, for which such party may be indicted, such person shall be adjudged guilty of treason, and shall be punished by death.

Sec. 2. That if any person shall know, that any other person has committed or is intending to commit treason, and shall not within one day from the time of his having such knowledge, give information thereof to the Governor, Judge of some Court of record, or to some Justice of the Peace of this State, he shall on conviction thereof be adjudged guilty of misprison of treason, and shall be punished, by confinement to hard labor in the Penitentiary, not exceeding seven years, or by fine not exceeding two thousand dollars.

Sec. 3. That no person shall be tried for treason or misprison of treason unless the indictment therefor be found within two years next after the commission of the offence.

Sec. 4. That if any public officer being a receiver of public money under any law of this State shall fraudulently convert the same to his own use, or pay or deliver the same to any person knowing that such person is not entitled to receive the same, he shall be punished by confinement to hard labor in the Penitentiary, not exceeding two years, or by imprisonment in the common Jail not exceeding one year and by fine not exceeding two thousand dollars.

#### OF OFFENCES AGAINST THE LIFE OR PERSON.

Sec. 5. That all murder committed by poison, starving, torture or other premeditated and deliberate killing, or committed in the perpetration or in the attempt at the perpetration of arson, rape, robbery or burglary, is murder in the first degree, and all murder not of the first degree is of the second degree. If the Jury shall find any person guilty of murder, they shall also find by their verdict, whether it is of the first or second degree.

Sec. 6. That if any person shall plead guilty to an indictment for murder, a Jury shall be summoned to find the punishment.

Sec. 7. That the punishment for murder in the first degree,

shall be death, and the punishment for murder in the second degree, shall be confinement to hard labor in the Penitentiary, for not less than three years nor more than fifteen years.

Sec. 8. That if any person shall be guilty of manslaughter, he shall be punished by confinement in the Penitentiary to hard labor for a term not less than one year, nor more than ten years.

Sec. 9. That if any person by assault, or by violence and putting in fear, shall feloniously steal, rob and take from the person of another, any money, goods, chattles, or other property which is the subject of larceny, he shall be punished by confinement to hard labor in the Penitentiary for a term not less than one year, nor more than ten years.

Sec. 10. That if any person shall ravish and carnally know any woman committing carnal copulation with her by force against her will, or if any man shall unlawfully and carnally know and abuse any woman child, under the age of ten years, he shall on conviction thereof, be punished by confinement to hard labor in the Penitentiary, for any time not less than one year, and in any prosecution under the provisions of this section, it shall not be necessary to prove emission.

Sec. 11. That if any person with intent to maim or disfigure, shall maliciously cut off an ear, cut out or maim the tongue, cut off or slit the nose or lip, put out an eye, cut off or disable any limb or member, of any person, he shall be punished by confinement to hard labor in the Penitentiary for a term not less than one, nor more than ten years.

Sec. 12. That if any person shall make an assault upon another with intent to commit any crime against the life or person of another which crime has been herein and heretofore described in this act, or shall attempt to commit any such crime, by any means not constituting an assault, he shall be punished by confinement to hard labor in the Penitentiary for a term not less than one year, nor more than ten years.

Sec. 13. That if any woman shall be privately delivered of a child, which if born alive would be a bastard, and shall endeavor privately to conceal its death, and the manner or cause thereof, she shall be punished by confinement to hard labor in the Penitentiary not exceeding ten years.

Sec. 14. That the murder of such child and the offence described in the preceding section may be charged in the same

indictment, and the person, accused, may be found guilty of either offence as the evidence may warrant.

Sec. 15. That if any person without lawful authority, shall forcibly confine, or imprison any free person within this State against his will, or shall forcibly carry or send such person out of this State or shall forcibly seize, inveigle or kidnap any person with intent, either to cause to be sent out of the State, against his will, or to be sold, or in any way to be held to service against his will, he shall be punished by confinement to hard labor in the Penitentiary not exceeding ten years.

#### OF OFFENCES AGAINST PROPERTY.

Sec. 16. That if any person shall wilfully and maliciously burn any dwelling house or any out building adjoining thereto, or any building whereby any dwelling house shall be burned, he shall be punished by confinement to hard labor in the Penitentiary for a term of not less than three years nor more than fifteen years.

Sec. 17. That if any person shall wilfully and maliciously burn any vessel lying within the body of any county, or any bridge, or any building, other than those described in the preceding section, he shall be punished by confinement to hard labor in the Penitentiary, for a term not less than two years nor more than ten years.

Sec. 18. That if any person shall wilfully and maliciously place any obstruction upon the track of any railroad, or remove any rail therefrom, or in any way injure such railroad, or do any other thing thereto, whereby the life of any person may be endangered, he shall be punished by confinement to hard labor in the Penitentiary, for a term not less than one year nor more than ten years.

Sec. 19. That if any person shall wilfully and maliciously burn any stack of corn, hay, fodder, grain or flax, or any fence, or any pile of boards, lumber or wood, or any trees, or underwood, of another, he shall be punished by confinement to hard labor in the Penitentiary, for a term not less than one year nor more than three years, or by fine not exceeding one thousand dollars, and imprisonment in the common Jail not exceeding one year.

Sec. 20. That if any person shall, in the night time, break and enter any dwelling house, with intent to commit any crime.

the punishment whereof may be death, or confinement to hard labor in the Penitentiary, he shall be punished by confinement to hard labor in the Penitentiary, for a term of not less than five years, nor more than fifteen years.

Sec. 21. That if any person, with intent to commit any crime, the punishment whereof may be confinement to hard labor in the Penitentiary, or to commit larceny, shall in the night time break and enter any office, shop, store or warehouse, or any vessel lying within the body of any county, he shall be punished by confinement to hard labor in the Penitentiary, for a term not less than one year, nor more than ten years.

Sec. 22. That if any person, with intent to commit any crime, the punishment whereof may be confinement to hard labor in the Penitentiary, shall in the day time, break and enter any building, or any vessel lying within the body of any county, he shall be punished by confinement to hard labor in the Penitentiary for a term not less than one year, nor more than seven years.

Sec. 23. That if any person shall, in the night time, break or enter, or in the day time, break and enter any dwelling house, or any out house adjoining thereto, any office, shop, store, warehouse, mill, or cotton gin, any meeting house, court house, town house, college, academy, school house, or other building erected for public use, or any vessel lying within the body of any county, and shall therein commit larceny, he shall be punished by confinement to hard labor in the Penitentiary, for a term not less one year, nor more than five years.

Sec. 24. That if any person shall wilfully and maliciously kill, maim, wound, poison, or disfigure any horse, gelding, mare, colt, mule, jack or jenny, cattle, sheep, or swine of another, with intent to injure the owner thereof, the person so offending shall, on conviction thereof, be confined to hard labor in the Penitentiary, for any time not exceeding one year.

Sec. 25. That if any person shall commit any larceny, from the person of another, he shall be punished by confinement to hard labor in the Penitentiary, not less than one year, nor more than seven years.

Sec. 26. That if any person shall steal, take, or carry away any horse, mule, ass, cattle, sheep or goat, the property of another, he shall be punished by confinement to hard labor in the Penitentiary, not less than one nor more than seven years.

Sec. 27. That if any person shall steal, take, and carry

away of the property of another, any money, bank bills, goods, or chattels, or any writing containing evidence of an existing debt, contract, liability, promise, or ownership of property of the value of twenty dollars, or of the receipt, payment or discharge of the like amount, or any writing of a like kind, which shall contain the like evidence, he shall be punished by confinement to hard labor in the Penitentiary, for a term not less than one year, nor more than five years.

Sec. 28. That if any person shall steal, take and carry away any property of another, such as is described in the preceding section, of a less amount or value than twenty dollars, he shall be punished by imprisonment in the common jail not exceeding one year, and by fine not exceeding one hundred dollars.

Sec. 29. That if any person shall steal, take and carry away any deed or other writing, importing to contain the conveyance, release, or defeasance of any title to, or interest in, any real estate, or any will, policy of insurance, bill of sale, of any vessel, or letter of attorney, or any writ, process or record of any court of this State, or any public record, or any record of any corporation, public or private, he shall be punished by confinement to hard labor in the Penitentiary, for a term not less than one year, nor more than five years.

Sec. 30. That if any person shall receive or conceal any property stolen as aforesaid, knowing the same to have been so stolen, he shall be punished in the same manner as if he had so stolen the same, and either before or after the conviction of the principal felon.

Sec. 31. That if any person shall fraudulently mortgage, pledge, sell, alienate, or convey, any of his real or personal estate, or shall fraudulently conceal his personal estate to prevent the attachment or seizure of the same upon mesne process, or execution, or to defraud creditors, he shall be punished by imprisonment in the common Jail not less than thirty days nor more than one year, or by fine not exceeding double the value of such estate, or by both of said punishments.

Sec. 32. That if any person shall fraudulently receive any such mortgage, pledge, or conveyance, or shall conceal the property of any debtor, with intent to prevent such attachment or seizure, he shall be punished in the manner provided in the preceding section.



## OF FORGERY AND COUNTERFEITING.

Sec. 33. That if any person shall falsely make or counterfeit, or fraudulently alter any public record, election return, any writ, process, or proceeding, of any Court of this State; any certificate or attestation of a Justice of the Peace, Notary Public, Clerk of any Court, or other public officer, in any matter wherever such certificate or attestation may be received as legal proof, any charter, will, deed, bond, or writing obligatory letter of attorney, policy of insurance, certificate of stock, bill of exchange, promissory note, order, acquittance, discharge for money or property, any acceptance of a bill of exchange, or any endorsement or assignment, of any bill of exchange, or promissory note, any certificate or accountable receipt for money or property, any warrant, order or request, for the payment of money, or the delivery of any property, or writing of value or any writing whatever purporting to contain evidence of the existence, or discharge of any debt, contract or promise, with intent that any person may be defrauded, he shall be punished by confinement to hard labor in the Penitentiary not less than one year, nor more than seven years.

Sec. 34. That any person who shall pass or use, as true, any such counterfeited or altered writing mentioned in the preceding section knowing the same to be such, with intent that any person shall be defrauded, he shall be punished in the manner specified in the preceding section.

Sec. 35. That if any person shall falsely make, or counterfeit or alter any writing not included in the thirty third section, or shall knowingly use the same, with intent that, and whereby, any person may be defrauded, he shall be punished by confinement to hard labor in the Penitentiary for a term not less than one year nor more than three years.

Sec. 36. That if any person shall falsely make or counterfeit, or fraudulently alter, any bank bill, or note, purporting to be issued by any bank, with intent that any person may be defrauded, he shall be punished by confinement to hard labor in the Penitentiary not less than five years, nor more than ten years.

Sec. 37. That if any pass, or offer to pass, as true, or shall bring into the State or have in his possession or custody, any such false counterfeited or altered bank bill, or note described in the preceding section, knowing the same to be so false,

counterfeit, or altered, with intent that any person may be defrauded, he shall be punished by confinement to hard labor in the Penitentiary, not less than one year, nor more than five years.

Sec. 38. That if any person shall make, mend or engrave any plate, block, press, or any tools or instrument, or shall make or provide any paper, or other material adapted or designed for forging, or making any such false, counterfeited or altered bank bills, or notes described in the two preceding sections, or shall have in his possession any such plate, block, press, tool, instrument, paper or material adapted or designed as aforesaid, with intent to use the same, or cause or permit the same to be used in forging or making such false or counterfeit bank bills, or notes, he shall be punished by confinement to hard labor in the Penitentiary not less than one year, nor more than five years.

Sec. 39. That upon the trial of any indictment, under the three sections next preceding, evidence that bills or notes purporting to be issued by any bank, are commonly received as currency, or other proof of the existence of any bank or banking company, therein described, shall be competent evidence for the jury, of its legal establishment and existence.

Sec. 40. That if any person shall make any false coin in imitation of any gold or silver coin, current within this State by law, or usage, he shall be punished by confinement to hard labor in the Penitentiary not less than five years nor more than ten years.

Sec. 41. That if any person shall pass or offer to pass, as true, or shall bring into this state, or have in his possession, any false and counterfeit coin described in the preceding section, knowing the same to be so false and counterfeit, and with intent that any person may be defrauded, he shall be punished by confinement to hard labor in the Penitentiary, not less than one year, nor more than five years.

Sec. 42. That if any person shall cast, stamp, engrave, make or mend, or shall have in his possession any mould, pattern, die, punch, engine, press, tool, or other instrument designed or adapted for making false, or counterfeit coin, in imitation of any gold or silver coin, current within this State, by law or usage, with intent that the same may be so used, he shall be punished by confinement to hard labor in the Penitentiary, not less than one, nor more than five years.

OF OFFENCES AGAINST PUBLIC JUSTICE.

Sec. 43. That if any person, being on oath or affirmation, in any legal proceeding, before any court, Justice of the Peace, Referee, Arbitrator, Auditor, or any person authorized by law to administer such oath or affirmation, shall commit perjury, he shall be punished by confinement to hard labor in the Penitentiary, not less than five years, nor more than ten years.

Sec. 44. That if any person, in regard to any matter or thing, wherein he is required by law to make oath or affirmation, shall wilfully swear or affirm falsely, he shall be deemed guilty of perjury and punished accordingly.

Sec. 45. That if any person shall corruptly procure, or attempt to procure another to commit perjury, he shall be deemed guilty of subornation of perjury, and shall be punished in the same manner as for the crime of perjury.

Sec. 46. That if any person shall wilfully assault or obstruct any officer, or other person duly authorized, in the service of any lawful process or order, in any civil case or in any criminal case, the punishment of which is imprisonment in the common jail, and fine, or either, or shall rescue, or attempt to rescue any prisoner, lawfully arrested, in such case, he shall be punished by confinement in the common jail not exceeding one year, and by fine not exceeding three hundred dollars.

Sec. 47. That if any person shall wilfully assault or obstruct any officer, or any person duly authorized, in the service of any criminal process, for any offence punishable by confinement to hard labor in the Penitentiary, for a term of years, or shall rescue, or attempt to rescue any prisoner, lawfully arrested in any such case, he shall be punished by confinement to hard labor in the Penitentiary not exceeding one half of such term.

Sec. 48. That if any person shall wilfully obstruct, or assault any officer or other person, duly authorized in the service of any criminal process, for any offence punishable by death, or confinement to hard labor in the Penitentiary for life, or shall rescue or attempt to rescue any prisoner, lawfully arrested in such case, he shall be punished by confinement to hard labor in the Penitentiary, for not less than five nor more than ten years.

Sec. 49. That if any person shall wilfully obstruct or assault any officer, or person duly authorized, in the discharge of

any duty of his office, in any case not included in the preceding sections, he shall be punished by imprisonment in the common jail, not more than one year.

Sec. 50. That if any person shall convey any tool, or any other thing, into any place of confinement, or afford aid in any manner, with intent that any prisoner may escape therefrom, but without any escape, he shall be punished by imprisonment in the common jail not exceeding one year, and by fine not exceeding one thousand dollars.

Sec. 51. That if any person shall convey any tool, weapon or other thing to any prisoner, convicted of any offence punishable by death, or confinement to hard labor in the Penitentiary, or into any place of confinement, with intent to aid any such convict to escape, he shall be punished by confinement to hard labor in the Penitentiary for not less than one year, nor more than ten years.

Sec. 52. That if any person shall aid in any manner in the escape of any prisoner, committed before or after conviction, to any place of confinement for any criminal offence, not capital, he shall be liable to the same punishment to which such prisoner was, or would have been liable, or to imprisonment in the common jail, not exceeding one year and fined not exceeding two thousand dollars.

Sec. 53. That if any person having the custody of any prisoner, arrested or committed for crime, shall voluntarily permit his escape, he shall be punished in the same manner prescribed in the two next preceding sections, for aiding in the escape of a prisoner, committed for a like cause.

Sec. 54. That if any person shall in any manner assist in the escape of any prisoner committed, before or after conviction, to any place of confinement for any capital offence, he shall be punished by confinement to hard labor in the Penitentiary for any term of years not exceeding fifteen.

Sec. 55. That if any person having the custody of any prisoner, arrested or committed for crime, shall negligently suffer his escape, he shall be fined not exceeding five hundred dollars.

Sec. 56. That if any person guilty of the offence described in either of the four next preceding sections, shall within six months after any such escape of any prisoner, recover and return such prisoner to the place of confinement from which he escaped, cases of rescue excepted, he shall be liable to such

fine as the jury may assess, and imprisonment shall be remitted.

#### OF OFFENCES AGAINST THE PUBLIC PEACE.

Sec. 57. That if any person shall assault another, or in any way break the peace, upon complaint and conviction thereof, before any Justice or Mayor, of any city or town, he shall be fined not exceeding one hundred dollars, or imprisoned not exceeding thirty days, and shall also recognize with sufficient surety, or sureties, to keep the peace, and be of good behaviour until the next term of the District Court to be holden in the county.

Sec. 58. That if any such offence is of an aggravated nature, the Justice or Mayor may order such offender to recognize, with sufficient surety or sureties, to appear at the District Court next to be holden in the county, and upon conviction of such offender before said court, he may be punished by fine not exceeding two hundred dollars, and imprisoned not exceeding six months in the County Jail, or by either of said punishments.

Sec. 59. That if any person shall be unlawfully, riotously or tumultuously assembled, any Justice, Sheriff, or his deputy, or any Constable shall approach the rioters as near as he can with safety, and command silence while proclamation is being made, and shall then make proclamation in these or like words: In the name of the State of Texas, every person here assembled is commanded to disperse immediately, and depart peaceably to his home or lawful employment.

Sec. 60. That if any persons shall continue so unlawfully, riotously and tumultuously assembled, after proclamation made by such peace officer as aforesaid, known or openly declared by himself to be such, in making such proclamation, he shall be punished by fine not exceeding one thousand dollars, and by imprisonment in the Common Jail not exceeding one year.

#### OF OFFENCES AGAINST DECENCY, CHASTITY AND MORALITY.

Sec. 61. That all persons being within the degrees of consanguinity or affinity in which marriages are prohibited, or declared by law to be incestuous, who shall intermarry with or carnally know each other, shall be punished by imprisonment in the com-

mon jail, not exceeding one year, and by fine not exceeding five hundred dollars.

Sec. 62. That if any person not authorized by law, or by a relative or friend for the purpose of re-interment, shall dig up, remove, or convey away any human body, or the remains thereof, or shall conceal the same, knowing it to be so illegally dug up, he shall be punished by confinement to hard labor in the Penitentiary, not exceeding one year, or by fine not exceeding two thousand dollars, and by imprisonment in the Common Jail, not exceeding one year.

Sec. 63. That if any person shall wrongfully destroy, mutilate, deface, injure, or remove any tomb, monument, grave stone, or other structure, in any place used or intended for the burial of the dead, or any fence, railing or curb for the protection of any such structure, or any enclosure for any such place of burial, or shall wrongfully injure, cut, remove or destroy any tree or shrub growing within any such enclosure, he shall be punished by imprisonment in the Common Jail, not exceeding six months, or by fine not exceeding five hundred dollars, or by both of said punishments.

Sec. 64. That if any person shall wilfully and maliciously kill, maim, beat or wound any horse, cattle, goat, sheep or swine, or shall wilfully injure or destroy any other property of another, he shall be punished by fine, not exceeding one hundred dollars, or by imprisonment in the County Jail, not exceeding ninety days, or by both of said punishments.

#### OF OFFENCES AGAINST PUBLIC POLICY.

Sec. 65. That if any person shall make any lottery, or shall dispose of any estate, real or personal, by lottery, he shall be fined not exceeding five hundred dollars, nor less than fifty dollars.

Sec. 66. That if any person shall sell, dispose of, offer or keep for sale any ticket or part thereof, in any lottery, or shall print or publish any account thereof, or of the place where, or person by whom any ticket therein, or any part of such ticket is kept for sale, or to be otherwise disposed of, he shall be fined not exceeding one hundred dollars, nor less than twenty-five dollars.

Sec. 67. That if any person shall play at any tavern, inn, storehouse, house for retailing spirituous liquors, or any other

public house, or in any street or highway, or in any other public place, or in any out house, where people resort, at any game or games, with cards, upon which money or property, or the representative of either shall be bet, such person or persons so playing shall be deemed guilty of a misdemeanor, and on conviction thereof by indictment, shall be fined in a sum not less than ten, nor more than twenty-five dollars.

Sec. 68. That on the trial of any person or persons for the commission of any offence named in the next preceding section of this act, it shall be sufficient for the indictment to charge, that the person or persons so offending, did play at cards, in any of the places mentioned in the preceding section, without stating what description of game was played, and upon making proof of the charge herein required, it shall be considered that the offence is made out, without proving what the game was.

Sec. 69. That if any person or persons shall exhibit or keep any gaming table, called A, B, C, or E, D, or roulette, rowley powley, or rouge et noir, or shall keep or exhibit a faro bank, monte bank, or any other gaming table, or bank of the like kind, or of any other description under any other name or denomination whatever, or without any name therefor, or shall be in any manner interested or concerned in keeping, exhibiting, or carrying on any such gaming table, bank, or game, at any place whatsoever, each and every person so offending shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in a sum not less than ten, nor more than one hundred dollars.

Sec. 70. That if any person or persons shall bet or be concerned in betting, at any gaming table, bank or banks mentioned in the preceding section of this act, or at any other gambling device whatever, such person or persons so offending, upon conviction thereof by indictment, shall be fined in any sum not less than ten nor more than fifty dollars.

Sec. 71. That in all prosecutions for offences under the two next proceeding sections of this act, it shall be sufficient for the indictment to charge, that the person or persons indicted, did keep or exhibit a gaming table, or bank for gaming, or was, or were interested or concerned in keeping or exhibiting, or carrying on a gaming table or bank, for gaming without setting forth the manner in which the person or persons was or were interested or concerned, and it shall not be necessary to prove that any money, or any other thing was lost or won, or bet upon

such gaming table or bank, and it shall be sufficient for the indictment to charge, that the person or persons betting upon, or concerned in betting upon such gaming table or bank, did bet, or was, or were concerned in betting upon such gaming table or bank, describing the gaming table or bank by the proper name if known, or describing it as a gaming table or bank, the name of which is unknown; and the several District Attorneys of this State, and the Grand Jurors, shall have power, under the direction of the court, to send for persons, and compel their attendance as witnesses, to give evidence of a violation of the two next preceding sections of this act; and such person or persons so made to testify, shall be exempt from liability for any violation of the two next preceding sections of this act, of which he is so compelled to give evidence.

Sec. 72. That if any person shall permit any game, prohibited by the sixty-seventh section of this act, to be played in his or her house, or shall rent any room for such purpose, he or she so offending, shall on conviction be fined not less than ten nor more than twenty-five dollars.

Sec. 73. That no offence or crime committed, and no penalty or forfeiture incurred previous to the time when this act shall take effect shall be affected by this act; except that, when any punishment, forfeiture, or penalty shall have been mitigated by the provisions of this act, such provision shall apply to, and control any judgment to be pronounced after this act shall take effect, for any offence committed before that time; and no prosecution for any offence or crime pending at the time this act shall take effect shall be affected by this act: but the same shall proceed in all respects as if this act had not passed.

Sec. 74. That this act shall take effect from and after the first day of January, one thousand eight hundred and forty-nine; and after that date, all laws and parts of laws conflicting with this act shall be repealed.

Approved, March 20, 1848.



CHAPTER 153.

An Act supplementary to an act making an appropriation for the Government for the years 1848, and 1849.

Section 1. Be it enacted by the Legislature of the State of Texas, That for compensation of the Auditor, the sum of one thousand dollars be, and the same is hereby appropriated, annually.

For compensation of Draftsman, in addition to the sum heretofore appropriated by the act to which this is a supplement, two hundred dollars, annually.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, March 20, 1848.

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CHAPTER 154.

An Act supplementary to an act to organize Justices Courts, and define the powers and jurisdictions of the same, approved 20th day of March, A. D., 1848.

Section 1. Be it enacted by the Legislature of the State of Texas, That in all cases where two or more persons are liable to be jointly sued before a Justice of the Peace, such suits may be brought before any Justice of the Peace in the precinct where either of the defendants may reside.

Sec. 2. Be it further enacted, That this act shall take effect and be in force on and after the first Monday in August, 1848.

Approved, March 20, 1848.

## CHAPTER 155.

An Act supplementary to an act to provide for ascertaining the debt of the late Republic of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That from and after the passage of this act, the Governor may appoint an Auditor who shall take the necessary oath of office, and perform the duties required by the act to which this is a supplement.

Approved, March 20, 1848.

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CHAPTER 156.

An Act to suppress Illegal Banking.

Section 1. Be it enacted by the Legislature of the State of Texas, That any Corporation, Company, or Association of individuals who shall use or exercise banking or discounting privileges in this State, or who shall issue any bill, check, promissory note, or other paper in this State, to circulate as money, without authority of law, shall be deemed guilty of a misdemeanor, and shall Texas, That in all cases where two or more persons are liable to be liable to a fine, of not less than two thousand dollars, nor more than five thousand dollars; which may be recovered by a suit in the District Court, in the name of the State.

Sec. 2. Be it further enacted, That it shall be the duty of the Attorney General of this State, to institute suit against every Corporation, Company, or Association of individuals in this State, who shall be guilty of a misdemeanor as defined in the first section of this act, which suit shall be instituted in the District Court of the county in which such Corporation, Company, or Association of individuals may keep their office; and service of a citation upon the officers of any such Corporation, Company, or Association of individuals, shall be a sufficient service; and in any judgment that may be obtained under the provisions of this act, execution may be levied on the estate of the Corporation, Company or Association of

individuals, against whom such judgment may be rendered, and in default of such estate, execution may be levied on the estate of the officers of said Corporation, Company or Association. .

Sec. 3. Be it further enacted, That in any suit instituted, under the provisions of this act, either party may appeal to the Supreme Court of the State, and no bond or security shall be required of the State in any such appeal.

Sec. 4. Be it further enacted, That each and every month, that any Corporation, Company or Association of individuals, shall use or exercise banking or discounting privileges in this State, without authority of law, shall be deemed a separate offence, as defined in the first section of this act; and each and every bill, check, promissory note or other paper, issued by any Corporation, Company, or Association of individuals in this State, to circulate as money, without the authority of law, shall also be deemed a separate offence as defined in said first section.

Sec. 5. Be it further enacted. That this act shall take effect and be in force from and after the first day of May, 1848.

Approved, March 20, 1848.

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## CHAPTER 157.

An Act to regulate proceedings in the County Court, pertaining to estates of deceased persons.

Section 1. Be it enacted by the Legislature of the State of Texas, That wills shall be admitted to probate, and letters testamentary or of administration, shall be granted in the county where the deceased resided, if he had a domicil, or fixed place of residence in the State: If the deceased had no domicil, or fixed place of residence in the State, but died in the State, then either in the county where his principal property was, at the time of his death, or in the county where he died: If he had no domicil, or fixed place of residence in the State, and died without the limits of the State, then in any county in the State where his nearest kin may reside; but if he had no kindred in

the State, then in the county where his principal estate may be situated.

Sec. 2. Be it further enacted, That all applications for the probate of wills, and for letters testamentary, or of administration, shall be in writing and filed with the Clerk of the County Court. Upon the filing of any such application, it shall be the duty of the Clerk, to give at least ten days notice thereof, by advertisement posted at the Court House, and at two other public places in the county, not in the same city or town, and proof that such notice has been given, shall be made to the satisfaction of the Court, before any action shall be had on such application.

Sec. 3. Be it further enacted, That a written will may be proved by the affidavit in writing, of one of the subscribing witnesses thereto, taken in open Court, and subscribed by the witness. If all the witnesses are non-residents of the county, or those resident in the county are unable to attend the Court, it may be proved by the testimony of any one or more of them, taken by deposition. If none of the witnesses are living, such a will may be probated on proof by two witnesses, of the hand writing of the subscribing witnesses, and also of the testator, if he was able to write; which proof may be either by affidavit taken in open Court and subscribed by the witnesses, or by deposition: If the will was wholly written by the testator, it may be probated on proof by two witnesses of his hand writing, which proof may also be made either by affidavit taken in open Court and subscribed by the witnesses or by deposition; such affidavits or depositions shall be filed in the Court, and, together with the will, shall be recorded by the Clerk; and in any suit that may afterwards be instituted, to contest the validity of any such will, such record shall be evidence, if the witness or witnesses be dead or resident without the county. Any person interested in any such will, may, within four years after it is admitted to probate, institute suit in the District Court to contest its validity: provided that infants, femes covert, and persons non compos mentis, shall have the like period after the removal of their respective disabilities; and, provided, also, that any such will may be attacked for forgery or any other fraud, at the suit of any heir at law of the testator, or any other person interested in his estate, at any time within four years after the discovery of such forgery or other fraud; and infants, femes covert, and persons non

compos mentis, shall have a like period after the removal of their respective disabilities.

Sec. 4. Be it further enacted, That no nuncupative will shall be proved within fourteen days after the death of the testator; nor until those who would have been entitled by inheritance, had there been no will, have been cited to contest the same, if they please; nor shall any such will be probated after six months have elapsed, from the time of speaking the pretended testamentary words, unless the same or the substance thereof shall have been committed to writing within six days after making such will; nor shall any such will be probated unless it be made in the time of the last sickness of the deceased, at his or her habitation, or where he or she hath resided, for ten days next preceding, except when the deceased is taken sick away from home, and dies before he or she returns to such habitation; nor shall any such will be probated unless it be proved by three credible witnesses, that the testator or testatrix called on some person to take notice, or bear testimony that such is his or her will, or words of like import; and whenever any such will may be probated, the evidence of the witnesses shall be committed to writing, sworn to and subscribed, in open Court, by the witnesses, and shall be recorded by the Clerk.

Sec. 5. Be it further enacted, That when application is made for the probate of a will, which has been probated according to the laws of any of the United States or territories, or of any country out of the limits of the United States, a copy of such will and of the probate thereof, attested by the Clerk of the Court in which such will was admitted to probate, and the seal of the Court annexed, if there be a seal, together with a certificate from the Judge, Chief Justice, or presiding magistrate, as the case may be, that the said attestation is in due form, may be filed and recorded in the Court, and shall have the same force and effect as the original will, if probated in said Court: provided that the validity of such will may be contested in the same manner as the original might have been.

Sec. 6. Be it further enacted, That application for the probate of a will, may be made by the testamentary executor, or by any person interested in the estate of the testator.

Sec. 7. Be it further enacted, That when application is made for the probate of a will, any person interested in the estate of the testator, may, at any time before trial, file his oppo-

sition thereto, in writing, and on the trial of the matter, all oral testimony shall be taken down in writing and subscribed by the witness or witnesses: copies of all testimony so taken, and also of the testimony of witnesses taken by deposition, shall be admitted in evidence on the trial of the same matter, in any other Court, when taken there by appeal or otherwise.

Sec. 8. Be it further enacted, That when a will shall have been probated, it shall be the duty of the Court to grant letters testamentary to the executor or executors appointed by such will, if any there be, or to such of them as are not disqualified and are willing to accept the trust, and qualify according to law, within twenty days after such probate.

Sec. 9. Be it further enacted, That when any person shall die intestate, or when no executor is named in a will, or when the executor or executors named in a will are disqualified, or shall renounce the executorship, or shall neglect to accept and qualify, within twenty days after the probate of the will, or shall neglect for a period of thirty days, after the death of the testator, to present the will for probate; then, administration of the estate of such intestate or administration with the will annexed of the estate of such testator, shall be granted: first, to the surviving husband or surviving wife: second, to the next of kin, or the principal devisee or legatee of such intestate or testator, or to some one or more of them; and if none of these apply, or, if applying, they neglect to qualify for a period of twenty days, after the order for their appointment, then to such other proper person or persons as will accept and qualify.

Sec. 10. Be it further enacted, That letters testamentary or of administration, shall not be granted to any person who is under twenty one years of age, or of unsound mind, or who has been convicted of any infamous crime; provided, however, that such letters may be granted to a surviving husband or wife who may be under twenty one years of age.

Sec. 11. Be it further enacted, That when the executor or executors named in a will are under age, and letters of administration, with the will annexed, have been granted to any other person or persons, such letters shall, at any time thereafter, be revoked, on the application of such executor or executors, or any one of them, and letters testamentary issued to such executor or executors, or any one of them, upon proof being made that he or they have attained the age of twenty one

years; and when two or more persons are named executors in a will, any one or more of whom are minors when such will is admitted to probate, and letters testamentary have been issued to such only as are of full age, such minor or minors, upon attaining the age of twenty one years, shall be permitted to qualify and receive letters.

Sec. 12. Be it further enacted, That whenever any person named as executor, shall have been absent from the State when the testator died, or when the will was proved, whereby he was prevented from presenting the will for probate within thirty days after the death of the testator, or from accepting and qualifying as executor within twenty days after the probate of the will; or whenever he shall have been prevented by sickness from so presenting the will, or so accepting and qualifying, he shall be allowed to accept and qualify as executor at any time within sixty days after his return to the State, or his recovery from sickness, upon making proof to the Court that he was so absent or so prevented by sickness: And if in the meantime letters of administration with the will annexed, have been granted, such letters shall be revoked: Provided he shall have first caused the person to whom letters have been granted to be cited to appear before said Court, and show cause why said letters should not be revoked.

Sec. 13. Be it further enacted, That when administration has been granted to any other person or persons than the surviving husband, or surviving wife, of the testator or intestate, upon application being made by him or her, such other person or persons shall be removed from the administration, and letters of administration to such applicant.

Sec. 14. Be it further enacted, That when administration has been granted to any other person or persons than the surviving husband or surviving wife, or the next of kin, or the principal devisee or legatee, of the intestate or testator, upon application being made by the next of kin, or the principal devisee or legatee of such intestate or testator or any of them, such other person or persons shall be removed from the administration, and letters shall be granted to such next of kin or principal devisee or legatee or to some one or more of them.

Sec. 15. Be it further enacted, That whenever letters of administration shall have been granted upon an estate, and it shall afterwards be discovered that the deceased left a lawful will, such will may be proved in the manner provided in this act: and

if an executor is named in such will he shall be allowed to accept and qualify in the manner herein provided; but if no such executor be named, or if the executor named be disqualified or shall renounce the executorship, or shall neglect to accept and qualify within twenty days after the probate of the will, or shall neglect for a period of thirty days after the discovery of such will to present it for probate, then administration with the will annexed, of the estate of such testator, shall be granted according to the provisions of this act; and whenever any such executor shall accept and qualify, or whenever any person shall be appointed and qualified as administrator with the will annexed, the letters of administration previously granted shall be revoked; but all acts done by the first administrator, previous to the qualification of the executor or administrator with the will annexed, shall be as valid as if no such will had been discovered.

Sec. 16. Be it further enacted, That when a will has been admitted to probate, in any of the United States, or the territories thereof, or of any country out of the limits of the United States, and the executor or executors named in such will, have qualified, and a copy of such will, and of the probate thereof, has been filed and recorded in any Court of this State, under the provisions of the fifth section of this act; and letters of administration with such will annexed, have been granted to any other person or persons than the executor or executors therein named, upon the application of such executor or executors, or any one of them, such letters shall be revoked, and letters testamentary shall be issued to such applicant.

Sec. 17. That when application is made for letters of administration, any person may, at any time before the said application is granted, file his opposition thereto in writing; and may apply for the grant of letters to himself or to any other person; and upon the trial, the Court shall grant letters to the person or persons that may seem best entitled to them; having regard to the provisions of this act; without further notice than that of the original application.

Sec. 18. That whenever an estate is unrepresented, by reason of the death, removal, or resignation of the executor or executors, or administrator or administrators, the Court shall grant administration, with the will annexed, of the estate not administered, or administration of the estate not administered, as the case may be, in the same manner and under the regulations herein prescribed for the appointment of original administrators.



Sec. 19. That before the issuance of letters testamentary or of administration with the will annexed, the person named executor or appointed administrator with the will annexed, shall, before the Clerk or Chief Justice, take and subscribe an oath, in form, as follows: I do solemnly swear, that the writing which has been offered for probate, is the last will of ———, so far as I know or believe; and that I will well and truly perform all the duties of executor of the said will or of administrator, with the will annexed, of the estate of the said ——— as the case may be.

Sec. 20. That before the issuance of letters of administration, the person appointed administrator shall, before the Clerk or Chief Justice, take and subscribe an oath, in form as follows: I do solemnly swear, that ———, deceased, died without leaving any lawful will, so far as I know or believe; and that I will well and truly perform all the duties of administrator of the estate of said ———.

Sec. 21. That before the issuance of letters testamentary or of administration, the person named as executor, or appointed administrator, shall enter into bond with at least two good and sufficient sureties, to be approved by, and payable to, the Chief Justice of the County, in such penalty as he may direct, not less than double the estimated value of the estate of the testator or intestate; Provided, however, that when any testator shall direct in his will that no security shall be required of the person or persons named therein, as executor or executors, letters testamentary shall be issued to such person or persons without any bond being required.

Sec. 22. That the oath of an executor or administrator may be taken and subscribed or his bond may be given either in term time or vacation, at any time before the expiration of twenty days from the probate of the will, or the order granting the letters, and all such oaths and bonds, shall be filed and recorded by the Clerk.

Sec. 23. That the following form may be used for the bonds of executors and administrators: The State of Texas, County of ——— know all men by these presents, That we, A. B. as principal, and C. D. and E. F. as sureties, are held and firmly bound unto the Chief Justice of the County of ———, in the sum of ——— dollars; for the payment of which well and truly to be made unto the said Chief Justice, we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents. Signed with our hands, and sealed with our

seals; the seals being scrawls; the ——— day of ———, A. D. 18—. The condition of this obligation is such, that whereas the above bound A. B. has been appointed executor of the last will and testament of J. C., deceased, or has been appointed by the Chief Justice of the County of ———, administrator, with the will annexed, of the estate of J. C., deceased; or, has been appointed by the Chief Justice of the County of ———, administrator of the estate of J. C., deceased, as the case may be: Now if the said A. B. shall well and truly perform all the duties required of him under said appointment, then this obligation shall be null and void; otherwise to remain of full force and effect.

A. B. [SEAL.]

C. D. [SEAL.]

E. F. [SEAL.]

Sec. 24. That whenever a married woman may be appointed executrix or administratrix, and shall wish to accept and qualify as such, she may jointly with her husband, execute such bond as the law requires, and acknowledge the same before the Chief Justice of the Court where the will was proved, or letters were granted; and such bond shall bind her estate in the same manner as if she were a feme sole; and whenever an executrix or administratrix may be a married woman, she or her husband shall act jointly in all matters pertaining to her said representative capacity.

Sec. 25. That whenever a surviving husband or wife under twenty-one years of age, shall wish to accept and qualify as executor or executrix, or administrator or administratrix, he or she may execute such bonds as the law requires, and acknowledge the same before the Chief Justice of the Court in which the will was proved, or letters of administration were granted, and such bonds shall be as valid as if he or she were of lawful age.

Sec. 26. That whenever an executor or administrator has been qualified in the manner required in this act, it shall be the duty of the Clerk to make out and deliver to such executor or administrator, letters testamentary or of administration, as the case may be, which letters shall be signed by the Chief Justice and attested by the Clerk, with his signature and the seal of the Court; and either said letters or a certificate of the Clerk, with the seal of the court affixed, that such letters have been issued, shall be sufficient evidence of the appointment and

qualification of an executor or administrator, whenever it shall be necessary to make proof thereof.

Sec. 27. That wills shall be probated, and letters testamentary or of administration, with full powers, shall be granted only in open court at a regular term thereof, after application in writing, and notice, as herein before required; but whenever it may appear to the Chief Justice, that the interest of an estate requires the immediate appointment of an administrator, he shall either in open court or in vacation, by writing under his hand and the seal of the court, attested by the Clerk, appoint some proper person administrator *pro tem.*, with such limited powers as the circumstances of the case may require: Such appointment may be made without notice—shall define the powers conferred, and before being delivered to the person appointed, shall be recorded in the minutes of the court, and the Clerk shall endorse thereon a certificate that it has been so recorded, and until such record and certificate are made, the appointment shall not take effect: Such appointment shall cease to be of force on the first day of the term of the court next after the date thereof; unless continued in force by an order entered on the minutes in open court; and in no case shall such appointment continue in force beyond the first day of the second term of the court next after the date thereof.

Sec. 28. That pending any contest relative to the probate of a will, or the granting letters of administration, whether such contest be in the County Court, or in any other Court on appeal, it shall be the duty of the Chief Justice to appoint an administrator *pro tem.* in the manner prescribed in the preceding section, and with such limited powers as the circumstances of the case may require: Such appointment may continue in force until the termination of the contest, and the appointment of an executor or administrator with full powers.

Sec. 29. That before the issuance of letters of administration *pro tem.*, under the provisions of the two preceding sections, the person appointed shall take and subscribe an oath and enter into bond; which bond and oath shall be, in substance, the same as the bond and oath required of other administrators, varying the forms to suit the circumstances of the particular case—and such bond and oath shall be filed and recorded in the like manner as other bonds of administrators.

Sec. 30. That when the sureties upon an executor's or administrator's bond, or any one of them, shall die, or shall re-

move beyond the limits of the State, or shall become insolvent, or when, in the opinion of the Chief Justice, the sureties upon any such bond are insufficient; it shall be his duty, either in term time or in vacation, to cause a citation to be issued and served upon such executor or administrator, requiring him to appear and give a new bond, on a day named in such citation, which may be in term time or in vacation.

Sec. 31. That any person interested in an estate may present a petition to the Chief Justice—representing that the bond of the executor or administrator is insufficient—whereupon it shall be the duty of the Chief Justice, either in term time or in vacation, to cause a citation to be issued and served on such executor or administrator, requiring him to appear upon a day named in the citation which may be either in term time or vacation—and show cause why he should not be required to give a new bond; and, on the return of such citation served, the Chief Justice shall enquire into the truth of the fact alleged, and if satisfied of the insufficiency of the bond, he shall require such executor or administrator to give a new bond.

Sec. 32. That the sureties upon the bond of an executor or administrator, or any one of them, may at any time present a petition to the Chief Justice, praying that such executor or administrator may be required to give a new bond; and that he or they may be discharged from all liability for the future acts of such executor or administrator: Whereupon it shall be the duty of said Chief Justice, whether in term time or in vacation, to cause a citation to be issued, and served on such executor or administrator, requiring him to appear, on a day named in the citation—which may be either in term time or in vacation—and give a new bond; and whenever such new bond shall have been given, and approved by the Chief Justice, such sureties shall be discharged from all liability under their bond for the future acts of such executor or administrator.

Sec. 33. That in all cases where a new bond shall be required from an executor or administrator, under the provisions of this act, an order to that effect shall be entered in the minutes of the court, naming the time within which such new bond shall be given—and until such new bond shall have been given and approved, the order shall have the effect to suspend the powers of such executor or administrator.

Sec. 34. That executors and administrators shall be removed by the Chief Justice, without notice, in term time, by an order entered on the minutes of the court, in the following cases.

1st. When they neglect to qualify in the manner required by this act, within twenty days after the will is probated, or the order is made for the granting of their letters.

2d. When they shall neglect to return to the court, within sixty days after receiving their letters, an inventory of the estate committed to their charge, so far as the same has come to their knowledge.

3d. When they have been required to give a new bond, and neglect to do so within the time prescribed by the court.

4th. When they absent themselves from the State, for a period of three months, without the permission of the court.

Sec. 35. That executors and administrators may be removed by the Chief Justice, of his own motion, or on the complaint of any person interested in the estate after being cited to answer such complaint or motion in the following cases:

1st. When they shall fail to make to the court any exhibit that they are required to make, by the provisions of this act; or when they shall fail to comply with any order that the Chief Justice is authorized to make against them, under the provisions of the same.

2d. When there shall appear sufficient grounds to believe that they have; or are about to misapply, embezzle, or remove from the State, the property committed to their charge.

3d. When they are proved to have been guilty of gross neglect, or mismanagement, in the performance of any of their duties.

4th. When they fail to obey any order of the court consistent with this act, in relation to the estate committed to their charge:

In the cases enumerated in this section, on proof being made that the executor or administrator has removed from the State, or otherwise endeavored to elude the service of process, on any such complaint or motion; the same may be heard and determined, though the citation be not served: and in all cases where an executor or administrator is removed, the causes of such removal shall be set forth in the order of removal.

Sec. 36. That if any person named as executor, shall have renounced the executorship, or shall have been removed there-

from, he shall not afterwards be appointed administrator of the estate; and whenever any person shall have been removed from the administration of an estate, he shall not afterwards be appointed administrator thereof.

Sec. 37. That if at any time an executor or administrator, shall wish to resign the administration of the estate that has been committed to his charge, he may present to the court from which his letters issued, a full and complete exhibit of the condition of the estate, together with his administration account—both of which shall be verified by affidavit—and also his application in writing for leave to resign: Whereupon it shall be the duty of the Clerk to make out a citation, returnable to some regular term of the court; which citation shall state the presentation of such exhibit, account and application—the term of the court to which it is returnable, and shall require all those interested in the estate to appear and contest such account, if they see proper. Such citation shall be published for at least twenty days in some newspaper printed in the county, if there be one: if not, then by posting copies thereof for a like period at three public places in the county: proof of such publication may be made by the affidavit of the publisher or printer, attached to a copy thereof. At the return term of such citation, or at some other term to which it may have been continued, upon the Chief Justice being satisfied that such citation has been published, or posted, as the case may be, he shall proceed to examine such exhibit and account, and to hear all proofs that may be offered in support of the same, and all objections and exceptions thereto; and shall if necessary, restate such accounts; and shall audit and settle the same. If it shall then appear that such executor or administrator has accounted for all said estate, according to law, the Chief Justice shall order him to deliver the estate, if there be any remaining in his possession, to some person who has given bond for the same, in like manner as herein prescribed for administrators. Upon complying with such order, said executor or administrator shall be permitted to resign his trust and be discharged.

Sec. 38. That whenever letters testamentary, or of administration shall be granted, the Chief Justice shall, by an order entered on the minutes of the court, appoint three or more disinterested persons, and citizens of the county, any two of whom may act, to appraise the estate of the deceased. If from any cause, such appointment be not made: or if the ap-

praisers, or any of them, so appointed, fail or refuse to act, or if, from any other cause, a new appointment is required, the Chief Justice shall by a like order, either in term-time or vacation, appoint another appraiser or appraisers, as the case may require; and in all cases, any two appraisers may act. Such appraisers shall, each, receive two dollars per day, for every day they may be necessarily engaged, and all reasonable expenses.

Sec. 39. That every executor, or administrator, shall, immediately after his appointment, with the assistance of any two or more of the appraisers appointed by the Chief Justice, make, or cause to be made, a full inventory and appraisement of all the estate of the testator or intestate, both real and personal, specifying in such inventory what portion of such estate is the separate property of the deceased, and what portion, if any, is represented as common property. The appraisement of the property specified in the inventory, shall be sworn to and subscribed by the appraisers making the same, before some officer of the county authorized by law to administer oaths: such executor or administrator shall also make and attach to such inventory, a full and complete list of all claims due or owing to the testator or intestate, specifying what portion of such claims is the separate property of the deceased, and what portion, if any, is common property. Such executor or administrator shall also make and attach to such inventory and list, his affidavit in writing, subscribed and sworn to before some officer of the county authorized by law to administer oaths, that the said inventory and list is a full and complete inventory and list of the property and claims, of his testator or intestate, that has come to his knowledge.

Sec. 40. That the inventory and list required to be made by the preceding section, shall be returned to the Court by the executor or administrator, within sixty days after the date of his appointment, and may be returned either in term time or vacation; but when returned, it shall be noticed on the minutes of the Court, and shall be recorded by the clerk.

Sec. 41. That whenever other property or claims of the testator or intestate, than such as may be included in the inventory and list which has been returned, shall come to the knowledge of the executor or administrator, he shall make and return an additional inventory or list of such newly discovered property or claims without delay; which said additional inventory and list shall be made, returned and recorded in like man-

ner as original inventories and lists; and any executor or administrator, on complaint of any person interested in the estate, shall be cited by the Chief Justice, and on good and sufficient proof being made, that any property or claims of the estate have not been included in the inventory and list returned, shall be required to make and return an additional inventory and list thereof, in like manner as original inventories and lists.

Sec. 42. That inventories, appraisements, and lists of claims, taken and returned in accordance with the foregoing provisions of this act, may be given in evidence in any suit by or against the executor or administrator, but shall not be conclusive, for or against him, if it be shown that there is other property not inventoried; or that there are other claims than those named in such lists; or that the property, or any part thereof was bona fide, sold for more or less than the appraisement; or was not separate or common property, as specified in such inventories and lists.

Sec. 43. That, when any inventory and appraisement has been returned in the manner herein before provided, any person interested in the estate, who may deem such appraisement to be unjust or erroneous, may apply to the Chief Justice for a new appraisement, notice of which application, together with a citation, shall be served on the executor or administrator, requiring him to appear at a regular term of the Court, and show cause why a new appraisement should not be made. On the return of such citation served, the Chief Justice shall enquire into the truth of the facts alleged, and, if satisfied that such appraisement was manifestly unjust or erroneous, shall appoint other appraisers, and order a new appraisement, to be made and returned in like manner as original appraisements. When such new appraisement is made and returned, it shall be recorded, and shall stand in place of the original appraisement, which shall be as if never made: Provided, That not more than one re-appraisement shall be made.

Sec. 44. That at the first term of the Court, after the original grant of letters testamentary, or of administration, it shall be the duty of the Chief Justice to fix the amount of an allowance to be made for the support of the widow and minor children, if there be either or any, of the deceased, which allowance shall be of an amount sufficient for their maintenance for the term of one year, and shall be paid by the executor or administrator to the widow, if there be one; if not, then to the guardian of the child



or children, either in money out of the first funds of the estate that may come to his hands, or in such personal effects of the deceased as such widow or guardian may choose to take at the appraisalment, or a part thereof in each, as they may select. If there be no personal effects of the estate that such widow or guardian are willing to take for such allowance, or not a sufficiency of them; and if there be no funds, or not sufficient funds, of the estate in the hands of such executor or administrator to pay such allowance, or any part thereof, then it shall be the duty of the Chief Justice, so soon as the inventory and list of claims are returned, to order a sale of so much of the estate, for cash, as will be sufficient to raise the amount of such allowance, or a part thereof, as the case may require: Provided, however, That when any such widow and minor children shall have separate property adequate to their maintenance, then no such allowance shall be made as is provided for in this section.

Sec. 45. That at the first term of the Court after an inventory and list of claims have been returned, it shall be the duty of the Chief Justice to set apart, for the use and benefit of the widow and children, if there be either or any, of the deceased, all such property as may be exempted from execution or forced sale by the Constitution or Laws of the State, with the exception of any exemption of one year's supply of provisions; and in case there should not be among the effects of the deceased, all or any of the specific articles so exempted, it shall be the duty of the Chief Justice to make an allowance in lieu thereof to the widow and children, or such of them as there be, which allowance shall be paid by the executor or administrator, either in money out of the first funds of the estate that may come to his hands, or in any property of the deceased that such widow or children may choose to take at the appraisalment, or a part thereof in both as they may select. If there be no property of the deceased that such widow or children are willing to take for such allowance, or not a sufficiency, and there be no funds, or not sufficient funds of the estate in the hands of such executor or administrator to pay such allowance, or any part thereof, it shall be the duty of the Chief Justice, on the application of such widow or children, to order a sale of so much of the estate for cash as will be sufficient to raise the amount of such allowance, or a part thereof as the case may require. Such allowance shall be paid in the following manner: If there be a widow and no children, the whole to be paid to the widow:

If there be a child, or children, and no widow, the whole to be paid to such child, or to be equally divided among such children: If there be a widow and a child, or children, one-half to be paid to the widow, and the other half to such child, or to be divided equally among such children: Provided, That, if the estate of such decedent be not insolvent, nothing in this section contained, shall be so construed as to prohibit the distribution and partition of said estate among the heirs and distributees thereof, including the portion herein provided, to be set aside for the use of the widow and children; And, further provided, That a year's provision shall be exempted from such distribution.

Sec. 46. That it shall be the duty of executors and administrators, within one month after receiving their letters, to publish in some newspaper printed in the county where the letters were issued, if there be one; if not, then in some newspaper printed in the State, and nearest the court house of the county where the letters were issued, a notice requiring all persons having claims against the estate of the testator or intestate, to present the same within the time prescribed by law, which notice shall state the time of the original grant of letters testamentary or of administration, and shall be published once a week for six successive weeks: when no newspaper is printed in the county, a copy of such notice shall also be posted at the court house. A copy of such printed notice, together with the affidavit of the publisher of the paper, that it was published once a week for six successive weeks, sworn to and subscribed before any Chief Justice or Notary Public, and attested by his official seal, may be filed and recorded in the Court from which the letters were issued; and a copy thereof may be given in evidence in any Court, in any action, whether by or against the executor or administrator; and a copy of the notice posted at the court house, with a certificate of the clerk that such notice was so posted, may be filed and recorded, and a copy thereof given in evidence in the like manner as provided for the printed notice.

Sec. 47. That every claim for money against a testator or intestate, shall be presented to the executor or administrator, within twelve months after the original grant of letters testamentary or of administration: or the payment thereof shall be postponed until the claims which have been presented within said twelve months and allowed by the executor or ad-

ministrator, and approved by the Chief Justice, or established by suit shall have been first entirely paid.

Sec. 48. That if any executor or administrator fail to give the notice required by the 46th section of this act, to be given, he shall be removed by the Chief Justice at any regular term of the Court, on the complaint of any person interested in the estate, after being cited to answer such complaint, unless such executor or administrator shall show to the Court that he has given such notice.

Sec. 49. That no executor or administrator shall allow any claim for money against his testator or intestate, nor shall any Chief Justice approve of any such allowance, unless such claim is accompanied by an affidavit, in writing, that the claim is just, and that all legal offsets, payments and credits, known to the affiant, have been allowed; which affidavit, if made in the county where the letters were granted, may be made before any officer of the county authorized to administer oaths: if made in any other county of this State, it shall be made before some Chief Justice, or Notary Public, and shall be attested by his official seal: if made out of this State, it shall be made before some Judge of a Court of Record having a seal, and shall be attested by the seal of his Court. If any such claim is allowed or approved without such affidavit, such allowance or approval shall be of no force or effect.

Sec. 50. That no holder of a claim for money against the estate of a deceased person, shall bring a suit thereon against the executor or administrator, unless such claim properly authenticated, has been presented to such executor or administrator, and he has refused to allow such claim for the whole amount, or a part thereof; or unless such claim has been presented to the Chief Justice, and he has disapproved of the allowance made by the executor or administrator, or a part thereof. In any suit that may be brought by the holder of any such claim, if he fails to recover thereon a greater amount than has been allowed by the executor or administrator, or than has been approved by the Chief Justice, he shall be liable for all costs of such suit.

Sec. 51. That when any claim for money against an estate shall be presented to the executor or administrator, if the same be properly authenticated, in the manner required by this act, he shall endorse thereon, or annex thereto, a memorandum in writing, signed by him, stating the time of its pre-

sentment, and that he allows or rejects the claim; or what portion thereof he allows, or rejects, as the case may be. If the claim, or a part thereof be allowed by the executor or administrator, it shall then be presented to the Chief Justice, either in term time or vacation, who shall endorse thereon, or annex thereto, a memorandum in writing, signed by him, stating that he approves or disapproves of such allowance, or what portion of such allowance he approves or disapproves of: If all, or any portion of the claim be so allowed and approved, the holder thereof shall be entitled to receive payment of the amount so allowed and approved, in due course of administration. If such claim be rejected by the executor or administrator, either for the whole amount, or a part thereof, or if the allowance or any part thereof made by the executor or administrator, be disapproved of by the Chief Justice, the holder of such claim may, within three months after such rejection by the executor or administrator, but not thereafter, bring a suit against the executor or administrator for the establishment thereof, in any Court having jurisdiction of the same; and on the trial of such suit, the memorandum in writing of the executor or administrator, or of the Chief Justice, endorsed on, or annexed to, such claim, may be given in evidence to prove the facts therein stated, without proof of the handwriting of such executor or administrator, or Chief Justice, unless the same be denied under oath. No execution shall issue on a judgment obtained by the plaintiff in any such suit; but such judgment shall have the same force and effect as if the amount thereof had been allowed by the executor or administrator, and approved by the Chief Justice.

Sec. 52. That when a claim for money against the estate of a deceased person, authenticated in proper form, shall be presented to the executor or Administrator within the time prescribed by law; if such executor or administrator fail or refuse to endorse thereon or annex thereto a memorandum in writing, as the previous section requires, such failure or refusal shall be deemed equivalent to a rejection of the claim by executor or administrator; and shall authorize the holder to bring suit for the establishment thereof; in like manner as if such claim had been so rejected; and such executor or administrator shall be removed by the Chief Justice at any regular term of the Court on the complaint of any person interested in such claim, after being cited to answer such complaint, and proof being made of such failure or refusal.

Sec. 53. That when any person shall sell property and enter into bond, or other written agreement, to make title thereto, and shall depart this life without having made such title, the holder of such bond or written agreement, or his legal representative, may file a complaint in writing in the County Court of the County where letters testamentary or of administration, of such deceased person, were granted, praying that the executor or administrator may be required to make titles, agreeably to the title bond, or other written agreement of the deceased: whereupon, it shall be the duty of the Clerk of said Court to issue a citation with a copy of the complaint, to be served on the executor or administrator, and on the return thereof served, at some regular term of the Court, the Chief Justice shall, if he find that such sale was legally made, order the executor or administrator to make titles, according to the tenor of the bond, or other written agreement, to the property so sold by his testator or intestate: whereupon, it shall be the duty of such executor or administrator to make titles, in compliance with such order; provided however, that any person interested in such estate may, at any time within two years after the making of any such order, have the same annulled and set aside by a suit in the District Court, upon good cause shown why the same should not have been made; provided also, that married women, minors, and persons of unsound mind, so interested, shall have a like period of two years, after the removal of their respective disabilities, within which they may in like manner have such order annulled and set aside.

Sec. 54. That it shall be the duty of every executor, or administrator, so soon as he shall ascertain that it is necessary to apply to the Chief Justice, at some regular term of the Court, for an order to sell so much of the property of the estate he represents, as he shall think sufficient to pay the expenses of administration, and the debts of the estate; such application shall be in writing, and shall be accompanied by a statement in writing, of the estimated expenses of administration; and of all the claims against the estate that have been presented to him, specifying what claims have been allowed by him, what rejected, and those upon which suit has been instituted against him; with the condition of such suit or suits which statement shall be verified      affidavit, upon the presentation of such application and statement, it shall be the duty of the Chief Jus-

tice, if satisfied that there is a necessity for such sale to order the same to be made.

Sec. 55. That when any executor or administrator shall neglect to apply for an order to sell sufficient property of the estate he represents, to pay the expenses of administration and the claims against the estate that have been allowed and approved, or established by suit; such executor or administrator shall be required by the Chief Justice, on the application in writing of any creditor of the estate, whose claim has been allowed and approved or established by suits or any heir, devisee, or legatee of the deceased, to present to the Court at some regular term thereof a statement in writing, like that provided for in the preceding section; and upon proof to the Court, by any such creditor, heir, devisee, or legatee, that a necessity exists for a sale, to pay the expenses of administration and the debts of the estate, it shall be the duty of the Chief Justice to order such sale to be made; provided the executor or administrator shall have been first cited.

Sec. 56. That whenever there is property belonging to the estate of a deceased person that is perishable or liable to waste, upon the application in writing of the executor or administrator, or any heir, devisee, or legatee of the deceased, or any creditor of the estate whose claim has been allowed and approved, or established by suit, the Chief Justice, by an order entered on the minutes of the Court, either in term time or in vacation, may direct the sale of such property, or any part thereof.

Sec. 57. That the Chief Justice, either in term time or in vacation, may, by an order entered on the minutes of the Court, direct the crops belonging to the estate of the deceased person, or any part thereof, to be sold at private sale, upon the application in writing of the executor or administrator, or any heir, devisee, or legatee of the deceased; or any creditor of the estate, whose claim has been allowed and approved, or established by suit; provided that no crops shall be sold under any such order at a price less than their fair market value.

Sec. 58. That all sales for the payment of the debts owing by the estate, shall be ordered to be made of such property as may be deemed most advantageous to such estate to be sold; provided however, that no order shall be made to sell the slaves belonging to an estate, for the purpose aforesaid, until all other property subject to the payment of debts has been first sold;

and it shall be shown to the Court that the proceeds of such sales are insufficient to pay such debts, unless it shall be necessary to sell such slaves, or a part thereof, for the satisfaction of some debt that is secured by mortgage or other lien, on them; or unless such estate shall, by the exhibit of the executor, or administrator, or by other evidence satisfactory to the Court, appear to be insolvent.

Sec. 59. That any creditor of the estate of a deceased person holding a claim secured by a mortgage, or other lien, which claim has been allowed and approved, or established by suit, may obtain, at a regular term of the Court, from the Chief Justice of the County where the letters testamentary or of administration were granted, an order for the sale of the property upon which he has such mortgage or other lien, or so much of said property as may be required to satisfy such claim, by making his application in writing, and having a copy thereof served upon the executor or administrator, with a citation requiring him to appear and answer such application.

Sec. 60. That when an application is made to the Chief Justice for an order to sell any property belonging to the estate of a deceased person, for the payment of debts; any person interested in such estate, may, at any time before an order is made thereon, file his opposition in writing to such sale; or may make application in writing for the sale of other property of the estate; and upon the hearing of the matter in controversy, the Chief Justice shall make such order thereon as the circumstances of the case may require, having due regard to the provisions of this act.

Sec. 61. That whenever any property of an estate is ordered to be sold by the Chief Justice, such order shall be entered on the minutes of the Court; shall describe the property to be sold, and shall specify the terms of such sale.

Sec. 62. That sales of personal property, other than slaves, for the payment of debts, may be ordered either for cash or on such credit as the Chief Justice may direct; and all sales of land or slaves, for the payment of debts, shall be made on a credit of twelve months; except when such sales are ordered to raise the amount of the allowance that may be made under the provisions of the forty fourth and forty fifth sections of this act, or for the satisfaction of a mortgage, or other lien, on said land or slaves: in which cases, such sales shall be made on such terms as the Chief Justice may direct.

Sec. 63. That all sales ordered by the Chief Justice shall be made to the highest bidder, and at public auction; unless otherwise directed by the will of the testator, or otherwise ordered by the Chief Justice under some provision of this act.

Sec. 64. That whenever in a will, power is given to an executor to sell any property of the testator, no order of the Chief Justice shall be necessary to authorize the executor to make such sale; and when any particular directions are given by a testator in his will, respecting the sale of any property belonging to his estate, the same shall be followed, unless creditors or heirs may thereby be prejudiced in their rights.

Sec. 65. That whenever a public sale of property is ordered under the provisions of this act, if the same be personal property other than slaves, it shall be advertised at least ten days before the day of sale; if the same be land or slaves, it shall be advertised at least twenty days before the day of sale. The manner of advertising shall be by posting a notice of such sale at the court house, and at two other public places in the county where the sale is to be made, but not in the same city or town. All such public sales shall be made within the hours of 10, A. M., and 4, P. M.; in case the day set apart for such sale shall be insufficient to complete the same, such sale may be continued from day to day, by giving public notice of the continuance, at the conclusion of the sale of each day, and the continued sale shall commence and close within the same hours. All such public sales of personal property other than slaves, shall be made at such time and place as may be directed by the Chief Justice in the order of sale: all such public sales of land or slaves shall be made on the first Tuesday of the month, at the court house door of the county where the letters testamentary or of administration were granted; unless the Chief Justice shall deem it to the advantage of the estate to order the sale in the county in which the property is situated; and in all cases where such public sale is ordered to be made in any other county than that in which the letters testamentary or of administration were granted, such sale shall be advertised in both counties.

Sec. 66. That when any person shall bid off property offered for sale, rent or hire, at public auction by an executor or administrator, and shall fail to comply with the terms of sale, renting or hiring, such property shall be re-advertised and sold, rented or hired, and the person so failing to comply, shall



be liable to pay to such executor or administrator, for the use of the estate, five per cent. on the amount of his bid—and, also, the deficiency in price on the second sale, renting or hiring if any such deficiency there be to be recovered by such executor or administrator, by action brought before a Justice of the Peace, or in the District Court, according to the amount of such penalty or deficiency.

Sec. 67. That when a sale of property is ordered under the provisions of this act, it shall be the duty of the executor or administrator to make such sale, or cause it to be made in obedience to the order, at the earliest period; and when such sale has been made, it shall be the duty of the executor or administrator, to return to the court that ordered the sale, an account thereof—either in term-time or vacation—within thirty days after the day of sale. Such account of sale shall be in writing—shall specify the property sold—the name of the purchaser—the price for which it was sold, and the terms of sale; and shall be sworn to and subscribed by such executor or administrator, before some officer authorized to administer oaths—whenever such account of sale is returned, such return shall be noted in the minutes of the court; and at the term of the court when it is returned or if returned in vacation at the first term thereafter, it shall be the duty of the Chief Justice to enquire into the manner in which such sale was made; and if satisfied that it was fairly made and in conformity with law, he shall cause to be entered on the minutes of the court a decree confirming it, and ordering the account of sales to be recorded by the Clerk, and a conveyance to be made to the purchaser of either land or slaves, by the executor or administrator; if not satisfied that such sale was so made, he shall cause to be entered in like manner, a decree setting it aside and ordering a new sale to be made. After any such decree of confirmation shall have been made, upon the purchaser complying with the terms of sale, the executor or administrator shall execute and deliver to him a conveyance of the property so sold, if it were either land or slaves, reciting therein the decree confirming the sale, and ordering the conveyance to be made; which conveyance of land or slaves so made, shall vest the right and title that the testator or intestate had, in the purchaser; and shall be prima facie evidence that all the requisites of the law have been complied with in making the sale; and such decree of confirmation of the sale of personal property other than slaves, shall in like manner vest the right

and title thereof in the purchaser, and shall be like evidence that all the requisites of the law have been complied with in making the sale of such personal property.

Sec. 68. That it shall not be lawful for any executor or administrator to take the estate of his testator or intestate, or any part thereof at its appraised value; or to sell the same or any part thereof unless under the directions of the will or the order of the Chief Justice under the provisions of this act; or to become the purchaser, either directly or indirectly, of any property of the estate sold by him: and if any executor or administrator, should either directly or indirectly, become the purchaser of any of the property of his testator or intestate, at a sale made by him, upon the complaint of any person interested in the estate and service thereof; and of citation on such executor or administrator, such sale shall be declared void by the Chief Justice, and such executor or administrator, decreed to hold the property so purchased in trust as assets of the estate. Nor shall it be lawful for any executor or administrator, either directly, or indirectly, to purchase for his own use any claim against the estate he represents; and if any executor or administrator, should purchase any such claim, upon the complaint in writing of any person interested in the estate and service thereof, with a citation on such executor or administrator—he shall be decreed by the Chief Justice to hold such claim in trust for the use of the estate; and he shall only be entitled to receive from the estate the amount he shall prove to have been paid by him therefor—such amount to be paid pro rata with other creditors of an equal degree.

Sec. 69. That it shall be the duty of every executor or administrator, to take such care of the property of his testator or intestate, real and personal, as a prudent man would take of his own property, and if there be any buildings or houses belonging to the estate, it shall be his duty to keep the same in tenantable repair—extraordinary casualties excepted: and all reasonable expenses incurred by the executor or administrator, in taking such care of the property, or in making such repairs, on sufficient proof thereof, shall be allowed him by the Chief Justice.

Sec. 70. That after the return of the inventory, if there be at any time in the possession of the executor or administrator, a plantation or slaves belonging to the estate, or any other property that may be rented or hired, so as to produce an income to the estate, and the disposition thereof is not specially directed

by the will of the testator, or by the provisions of this act, or if the same is not required to be at once sold for the payment of debts, or claims of any kind against the estate, it shall be the duty of the executor or administrator to apply to the Chief Justice for an order to carry on such plantation, or to rent the same and hire out the slaves, and to rent or hire such other property for the benefit of the estate. Upon such application being made, it shall be the duty of the Chief Justice either in term-time or vacation to make an order for such executor or administrator, either to carry on such plantation or to rent the same, and hire out the slaves, as to the Chief Justice shall appear most for the interest of the estate—and to hire or rent such other property. Such order shall be entered on the minutes of the court, and in making the same, the chief Justice shall take into consideration the condition of the estate, and the necessity that may exist, for future sales of such property for the payment of debts or claims of any kind against the estate; and shall not extend the time of carrying on such plantation or for renting or hiring any of the property, beyond what may consist with the speedy settlement of the estate: In carrying on a plantation, or in renting or hiring any such property under such order, all reasonable expenses incurred by the executor or administrator, shall be allowed by the Chief Justice on proper proof thereof; and if any executor or administrator shall fail to make such application, or to obey any such order when made, he, and his sureties on his bond, shall be liable, at the suit of any person interested in the estate, for the use and benefit of the estate, for such amount as might have reasonably been produced by carrying on such plantation, or by renting or hiring such property.

Sec. 71. That whenever any property is rented or hired by an executor or administrator, under the provisions of this act, such renting or hiring shall be made at public auction to the highest bidder, after having given at least ten days notice thereof, by posting a copy of such notice at the court house, and at two other public places in the county where the same is to take place.

Sec. 72. That whenever an executor or administrator sells property of the estate he represents, on a credit, either under the directions of the will of the testator, or under an order of the Chief Justice, he shall take the note of the purchaser for the amount of his purchase, with good personal security; and if land or slaves have been sold, he shall also take a mortgage

upon the property sold, to secure the payment of the purchase money. And if the executor or administrator shall neglect to take such note, security and mortgage, he, and the sureties on his bond, shall be liable at the suit of any person interested in the estate, for the use of the estate, for the amount of such sales; and whenever any executor or administrator shall rent or hire any property of his testator or intestate, on a credit under the provisions of this act, he shall take the note of the person hiring or renting such property, for the amount of the hire or rent, with good personal security, and if he shall fail to take such note, and security, he and his sureties shall in like manner be liable for the amount thereof.

Sec. 73. That every executor or administrator shall use ordinary diligence to collect every claim due to the estate he represents; and to recover possession of all property to which the estate has a right; provided there is a reasonable prospect that such claim can be collected, or such property recovered; and if any executor or administrator shall neglect to use such diligence, he, and his sureties on his bond, shall be liable at the suit of any person interested in the estate, for the use of the estate, for the amount of such claims, and the value of such property as may have been lost by his neglect to use such diligence.

Sec. 74. That if there be more than one executor or administrator named in the letters, any one or more of them, on the neglect of the rest, may return an inventory as required by this act; and the executor or administrator so neglecting, shall not thereafter interfere with the estate, or have any power over the same; but the executor or administrator so returning, shall have thereafter the whole administration—unless within two months after the return, the delinquent or delinquents shall assign to the court some reasonable excuse which it shall deem satisfactory.

Sec. 75. That the naming an executor in a will shall not operate to extinguish any just claim which the deceased had against him; and, in all cases when an executor or administrator, may be indebted to his testator, or intestate, he shall account for the debt in the same manner as if it were so much money in his hands: provided, however, that if said debt was not due at the time of receiving letters, he shall only be required to account for it from the date when it shall become due.

Sec. 76. That whenever an executor or administrator shall think it will be for the interest of the estate he represents, to purchase any property, or take any claims for the use and ben-

efit of the estate in payment of any debt due to the estate, he may present a petition to the Chief Justice at a regular term of the Court, representing these facts; and if the Chief Justice shall be satisfied that it will be for the interest of the estate to purchase such property, or to take such claims, he may make a decree authorizing such executor or administrator to make such purchase either at public or private sale, or to take such claims for the use and benefit of the estate.

Sec. 77. That when the mortgagee of any property shall die, the executor or administrator of such mortgagee shall be, and he is hereby authorized, on receiving from the mortgagor, or any person for him, the amount due to the estate he represents, to release to the mortgagor the legal title to such mortgaged property, and such release shall be valid.

Sec. 78. That the debts due from an estate shall be paid by the executor or administrator in the following order:

1st. Funeral expenses and expenses of last sickness.

2nd. All expenses of administration, including the allowance that may be made under the provisions of the forty fourth and forty fifth sections of this act; and the expenses incurred in the preservation, safe keeping and management of the estate.

3d. Debts secured by mortgage, or having a lien, whether by judgment or execution, or otherwise; so far as the same can be paid out of the proceeds of the property subject to such mortgage or lien; and when more than one of such mortgages and liens, or any of them exist upon the same property, the oldest shall be paid first.

4th. All other debts, and no preference shall be given to debts secured by mortgage, or having a lien by judgment, execution or otherwise, further than regards the property subject to such mortgage or lien. When there is a deficiency of assets, debts of the fourth class shall only be paid pro rata; and no executor or administrator shall be allowed to pay any claims of the fourth class, whether the estate is solvent or insolvent, except with their pro rata amount of the funds of the estate that have come to hand.

Sec. 79. That executors and administrators shall be entitled to receive, and may retain in their hands, five per cent. upon the sums they may actually receive in cash; and the same upon all sums they may pay away, in cash, in the course of their administration. All reasonable expenses incurred by an exec-

utor or administrator in the preservation, safe keeping and management of the estate, and all reasonable attorneys' fees that may be incurred in the course of the administration, shall be allowed by the Chief Justice, on proof that there was a necessity therefor. Whenever in the opinion of the Chief Justice, the commission upon the sums received, and paid away, is not sufficient compensation for his services; or if, from the circumstances of the estate, extraordinary services were required to be rendered, the Chief Justice shall allow such further compensation as may seem reasonable.

Sec. 80. That executors and administrators, whenever they have funds in their hands belonging to the estate they represent, shall pay,—

1st. The funeral expenses and expenses of last sickness.

2d. Expenses of administration, including the allowance that may be made under the provisions of the forty fourth and forty fifth sections of this act; and the expenses incurred in the preservation, safe keeping and management of the estate, when such claims have been allowed, and approved, or established; and if they shall fail or refuse so to do, when required by the holder of such claims, the person holding any such claim may obtain an order from the Chief Justice at a regular term of the Court, directing such payment to be made, upon making proof that such executor or administrator has funds of the estate in his hands, sufficient to make such payment, and fails or refuses to make it: provided, such executor or administrator shall have first been cited on the complaint of the holder of such claim, to appear and show cause why such order should not be made.

Sec. 81. That whenever any executor or administrator shall have in his hands the proceeds of a sale that has been made for the satisfaction of a mortgage, or other lien, and such proceeds or any part thereof are not required for the payment of any debts against the estate, that have a preference over such mortgage or other lien, it shall be the duty of such executor or administrator immediately to pay over such proceeds or so much thereof as may not be required for the payment of any debts against the estate that have a preference over such mortgage or other lien, to the creditor or creditors having a right thereto; and if any executor or administrator shall fail or refuse so to do, such creditor or creditors upon proof thereof, may obtain an order from the Chief Justice, in

like manner as is provided in the preceding section, directing such payment to be made.

Sec. 82. That the first term of the Court after the expiration of twelve months from the time of the original grant of letters testamentary or of administration, it shall be the duty of the executor or administrator to return to the Court, an exhibit, in writing, sworn to and subscribed by him, setting forth a list of all claims against the estate that were presented to him within twelve months after the said grant of letters testamentary or of administration, specifying which have been allowed by him; which have been rejected, and the date when rejected which have been sued upon, and the condition of the suit; also, setting forth, fully, the condition of the estate: and if any executor or administrator shall neglect to return such exhibit at the term of the Court named above, it shall be the duty of the Chief Justice to revoke his letters; either in term time or in vacation, on the complaint of any person interested in the estate, without notice to such executor or administrator.

Sec. 83. That upon the return of the exhibit mentioned in the preceding section of this act, if it shall appear therefrom, or by any other evidence, that the estate is solvent; taking into consideration, as well the claims presented before the expiration of twelve months from granting of letters testamentary or of administration, on which suit has been, or can yet be instituted; as those so presented, allowed and approved, or established by judgment; and that the executor or administrator has in his hands sufficient funds for the payment of all of the aforesaid claims, it shall be the duty of the Chief Justice to order immediate payment to be made, of all the claims allowed and approved or established by judgment: If he has funds in his hands, but not sufficient for the payment of all the said claims; or if the estate be insolvent, and he has any funds in his hands, it shall be the duty of the Chief Justice to order such funds to be applied to the payment of all claims, having a preference in the order of their priority, if they or any of them be still unpaid; and then to the payment, pro rata, of the other claims allowed and approved or established; taking into consideration, also, the claims that were presented within the twelve months, and in suit, or on which suit may yet be instituted.

Sec. 84. That at the third regular term of the Court after the expiration of twelve months from the original grant of let-

ters testamentary or of administration, it shall be the duty of the executor or administration, to return to the Court a further exhibit in writing, sworn to and subscribed by him, setting forth a list of all suits that have been instituted against him since the return of the exhibit required by the eighty second section of this act; the condition of such suits, and all suits previously instituted; specifying which of said suits are upon claims presented to him within twelve months after such grant of letters; and which, upon claims presented after the twelve months: also setting forth a list of all claims that have been presented to him since the expiration of the twelve months from said grant of letters; specifying which have been allowed by him, and which have been rejected, with the date of the rejection. And he shall also, from time to time after the said term, return to the Court a further exhibit under oath, setting forth a list of all claims presented to and allowed or rejected by him since the return of his former exhibit, with the date of the rejection; and, also, of all suits instituted against him, and all judgments rendered upon suits against him, since his former return. And any executor or administrator who shall fail to return to the Court any exhibit as required by this section, shall be removed by the Chief Justice without notice, either in term time or vacation; on the complaint of any person interested in the estate.

Sec. 85. That claims for money against the estate of a deceased person, which may be presented to the executor or administrator after the expiration of twelve months from the original grant of letters testamentary or of administration, and allowed by him, and approved by the Chief Justice, or established by suit, shall be paid by the executor or administrator at any time before the estate is finally closed, when he has funds of the estate in his hands, over and above what may be sufficient to pay all debts of every kind against the estate, that were presented within the twelve months and allowed and approved, or established by suit, or that may be so established, and an order for the payment of any such claim, upon proof that the executor or administrator has such funds, may be obtained from the Chief Justice in like manner as is provided in this act, for creditors to obtain orders of payment.

Sec. 86. That at the third regular term of the Court after the expiration of twelve months from the original grant of letters testamentary or of administration, or at any term of the



Court after that, any person interested in the estate may, by complaint in writing, filed in the County Court, cause the executor or administrator to be cited to appear at a regular term of the Court, and make an exhibit in writing, under oath, to the Court; setting forth, fully, in connexion with the previous exhibits, the condition of the estate he represents; and if it shall appear to the Court by said exhibit, or by other evidence, that such executor or administrator has any funds of the estate in his hands subject to distribution among the creditors of the estate, it shall be the duty of the Chief Justice to order the same to be paid out to them according to the provisions of this act: or any executor or administrator may voluntarily present such exhibit to the Court, and if he has any funds of the estate in his hands subject to distribution among the creditors of the estate, a like order shall be made.

Sec. 87. That at any time after the first term of the Court, after the expiration of twelve months from the original grant of letters testamentary or of administration, the heirs, devisees or legatees of the estate, or any of them, may, by their complaint in writing, filed in the County Court, cause the executor or administrator, and the heirs, devisees or legatees of the estate, to be cited to appear at a regular term of the Court, and show cause why a partition and distribution should not be made among the heirs, devisees or legatees of the residue of the estate; if any there be after retaining in the hands of the executor or administrator a sufficient portion thereof to pay all debts of every kind against the estate, that have been allowed and approved, or established by suit, or that have been rejected by the executor or administrator, or not approved by the Chief Justice, and may yet be established. And if it shall appear to the Chief Justice, after the service of such citation that there is any such residue of the estate, he shall order it to be so partitioned and distributed.

Sec. 88. That no claim for money against his testator or intestate shall be allowed by an executor or administrator, nor shall any suit be instituted against him on any such claim after an order for partition and distribution has been made as provided for in the previous section of this act: but the holder of any such claim not barred by the laws of limitation, shall have his action thereon against the heirs, devisees or legatees of the estate; but they shall not be bound beyond the value of the property they may receive in such partition and distribution.

Sec. 89. That when all the debts known to exist of every kind against the estate of a deceased person have been paid, or when they have been paid so far as the assets of the estate in the hands of the executor or administrator will permit, the executor or administrator of such estate may present his account to the Court, verified by affidavit for settlement; or, the Chief Justice shall cause him to be cited to present such account, either of his own motion, or on the complaint of any person interested in the estate. Upon the presentation of such account, it shall be the duty of the Chief Justice, either in term time or in vacation, to order at least twenty days notice to be given by publication in a newspaper, if there be one printed in the county; if not, then by posting such notice at the court house, and at two other public places in the county, for at least twenty days: such notice shall state the presentation of said account, the term of the Court when it will be acted on, and shall require all persons interested to appear and contest said account, if they see proper. The Chief Justice may order such other notice to be given as he shall deem expedient. At the term of the Court named in such notice, or at some subsequent term to which the same may be continued, upon proof being made that notice has been given in the manner required by this act, and the order of the Chief Justice, it shall be his duty, after examining said account with all the exceptions thereto, and hearing the evidence that may be offered in support of, or against, said account and exceptions, to re-state said account if necessary, and to audit and settle the same; and upon the settlement of said account if there is none of the estate remaining in the hands of the executor or administrator, he shall be discharged from his trust by an order of the Chief Justice; but if there is any of the estate remaining in the hands of the executor or administrator, and the heirs, devisees or legatees of the estate, or their assignees, or either or any of them are present or represented in Court, it shall be the duty of the Chief Justice to order a partition and distribution of the estate to be made among them, upon satisfactory proof being made that they are entitled to receive it.

Sec. 90. That upon the settlement of the account of any executor or administrator, as provided for in the preceding section, if the heirs, devisees or legatees of the estate, or their assignees, or either or any of them do not appear or are not represented in the Court, and there are any funds of such estate remaining in the hands of the executor or administrator, it shall be the duty

of the Chief Justice to order the same to be paid over to the Treasurer of the State; and if there shall be any property of the estate that has not been sold, or any debts due the estate that may be collected, it shall be the duty of the Chief Justice to order such property to be sold on a credit of twelve months, and such debts to be collected; and at the first term of the Court, after the expiration of twelve months after such sale, and every six months thereafter, while the estate remains under the control of such executor or administrator, it shall be his duty to render to the Court a full exhibit of the condition of such estate, verified by affidavit. And whenever there shall be any funds of the estate in the hands of the executor or administrator, it shall be the duty of the Chief Justice to order the same to be paid to the Treasurer of the State: Provided, however, That while such estate, or any portion thereof remains under the control of the executor or administrator, the heirs, devisees, or legatees, or their assignees, or either or any of them, may obtain from the Chief Justice, at a regular term of the Court, an order to have the same partitioned and distributed among them according to their respective interests in the same, upon causing the executor or administrator to be cited, and making satisfactory proof to the Court of their right to the same; and whenever such estate shall have been so partitioned and distributed and delivered over to the persons entitled thereto, or when the debts due such estate have been collected so far as there is a reasonable prospect of collecting them, and the proceeds paid over to the Treasurer of the State as herein required, such executor or administrator shall be finally discharged from his trust, by an order of the Chief Justice, entered at some regular term.

Sec. 91. That whenever an order shall be made by the Chief Justice for an executor or administrator to pay over any funds to the Treasurer of the State under the provisions of this act, it shall be the duty of the Clerk of the Court in which such order may be made, to transmit to said Treasurer, by mail, a certified copy of such order within one month after said order shall have been made. Whenever the clerk mails such copy, he shall take from the postmaster, with whom it is mailed, a certificate, stating that such certified copy was mailed in his office, directed to the Treasurer of the State, at the seat of government of this State, and the date when it was mailed, which certificate shall be recorded in the minutes of the Court; and any Clerk who shall neglect to transmit a certified copy of such order within

the time prescribed, and to take such certificate and have it so recorded, shall be liable to a penalty of one hundred dollars, to be recovered by an action in the name of the State, before any Justice of the Peace of the county, on the information of any citizen of the county; one half of which penalty shall be paid to the informer, and the other half to the State.

Sec. 92. That whenever any executor or administrator shall pay over to the Treasurer of the State, any funds of the estate he represents under the provisions of this act, he may take from said Treasurer a receipt for such payment, with his official seal attached, and file the same, and have it recorded on the minutes of the Court by which such funds were ordered to be paid; and a copy of such record shall be evidence of such payment.

Sec. 93. That whenever any funds of an estate shall have been paid to the Treasurer of the State, under the provisions of this act, any heir, devisee, or legatee of such estate, or their assignees, or either or any of them, may recover the portion of such funds to which he or she would have been entitled if the same had not been so paid to the Treasurer. Such recovery may be had in a suit against said Treasurer before any Court of competent jurisdiction in the county where the letters testamentary or of administration were granted; but in any such suit the plaintiff shall be liable for all costs of Court; and in all cases where any funds belonging to the estate of a deceased person have heretofore been paid into the Treasury of the State; or when any title papers belonging to any such estate have been deposited with the Comptroller, such funds or title papers may be recovered in like manner by the person or persons who would have been entitled thereto, if the same had not been so paid over or deposited.

Sec. 94. That whenever any executor or administrator shall fail to pay to the Treasurer of the State any funds of the estate he represents that he has been ordered by the Chief Justice so to pay within three months after such order has been made, such executor or administrator shall be liable to pay out of his own estate to the State Treasurer, damages thereon at the rate of five per cent. per month for each month he may neglect to make such payment after the three months from such order. The Treasurer of the State shall have the right, in the name of the State, to apply to the Chief Justice of the Court in which such order was made, to enforce the payment of such funds and damages if any have accrued; and it shall be the duty of the Chief Jus-

tice to enforce the payment in like manner as other orders of payment are enforced by him; or the said Treasurer shall have the right to institute suit in the name of the State against such executor or administrator, and the sureties on his bond for the recovery of the funds so ordered to be paid, and damages, if any have accrued: which suit may be instituted in any Court of competent jurisdiction, in the county where the letters testamentary or of administration were granted.

Section 95. That in all cases where an order shall have been made by any Chief Justice under the provisions of this act, for an executor or administrator to pay over money to any person other than the Treasurer of the State, and such executor or administrator shall neglect to make such payment when it is demanded by the person entitled thereto, his agent or attorney, such executor or administrator shall be liable to pay out of his own estate to the person in whose favor such order of payment was made, damages upon the amount he shall so neglect to pay, at the rate of ten per cent. per month for each and every month he shall so neglect to make such payment after the same was so demanded; such damages to be recovered by suit, before any Court having competent jurisdiction.

Sec. 96. That all applications for the partition and distribution of an estate under the provisions of this act, shall be in writing, and shall be filed with the Clerk of the Court to which the application is made. Upon the filing of any such application, it shall be the duty of the clerk to issue a citation, returnable to some regular term of the Court, which citation shall state the name of the person whose estate is sought to be partitioned and distributed—the term of the Court to which such citation is returnable, and shall require all persons intersted in the estate to appear and show cause why such partition and distribution should not be made; such citation shall be personally served by leaving a copy thereof with each person entitled to a share of the estate who is known, and is a resident of this State; and if there be any persons so entitled, who are not known or who are not residents of this State, such citation shall be published for at least four successive weeks in some newspaper printed in the county, if there be one; if not, then it shall be published in like manner in one of the nearest newspapers published in the State, a copy of such publication and the affidavit of the publisher or

printer attached thereto, stating that it was so published, shall be evidence of the publication.

Sec. 97. That at the return term of any such citation as is provided for in the preceding section, or at some succeeding term to which the application may be continued by the Court, if it shall appear that such citation has been served and published as required by law, the Court shall proceed to ascertain who are the persons, by law, entitled to partition and distribution, and their respective shares; and if there are any persons so entitled, who are known, and are minors, and have no guardian in this State, or whose guardians are also entitled to a portion of such estate, the court shall appoint a guardian, ad litem, to represent them in the partition of the estate; and if there are any persons so entitled, who are not known, or not residents of this State, and no person appears who is authorized to represent them, the Court shall appoint an attorney to represent them in the partition of the estate: after which, the Court shall proceed to ascertain whether advancements have been made to any of the persons so entitled—their nature and value, and require the same to be placed in hotch pot, as required by the law governing descents and distributions; and also to ascertain what estate is liable to partition and distribution: the court shall then enter a decree, which shall state the name and residence if known, of each person entitled to a share of the estate—specifying those who are known to be minors—the name of their guardian or guardians ad litem—the name of the attorney appointed to represent those who are unknown, or are not residents of this State: the decree shall also state the proportional part of the estate to which each is entitled; and shall contain a full description of all the estate to be distributed: if the estate to be distributed shall consist only of money, or debts due the estate, or both, the court shall fix the amount to which each is entitled, and order the payment and delivery thereof by the executor or administrator; but if the estate do not consist entirely of money or debts due the estate, or both, the court shall appoint three or more discreet persons as commissioners to make a partition and distribution of the estate, and shall order a writ of partition to issue, commanding them to proceed forthwith to make such partition and distribution in accordance with the decree of the Court, a copy of which shall accompany such writ; and, also, commanding them to make due return of said

writ—with their proceedings under it—at some term of the Court to be named in the writ.

Sec. 98. That it shall be the duty of the Commissioners of partition under this act, to make a fair, just and impartial partition and distribution of the estate in the following order:—1st.—Of the land or other real estate by allotment to each distributee, of a part in each parcel, or of parts in one or more parcels or of one or more parcels either with or without the addition of a part or parts or other parcels as shall be most for the interest of the distributees: provided, the said real estate is capable of being so divided without manifest injury to all or any of the distributees. And the said Commissioners shall have power if they think it necessary, to call to their aid one or more well qualified surveyors to run the lines of any lands and also divisional lines thereof. If the real estate is not capable of a fair, just and equal division, in kind, but may be made so, by allotting to one or more of the distributees a proportion of money or negroes, or other personal property to supply the deficiency or deficiencies, the commissioners shall have power to make, as near as may be, an equal division of the real estate, and supply the deficiency of any share or shares from the money, negroes or other property. The Commissioners shall proceed to make a like division in kind as near as may be, of the negroes,—supplying the deficiency of any share or shares from the money or other property; and also a like division of the money and other personal property, and shall determine by lot, among equal shares, to whom each particular share shall belong.

Sec. 99. That when, in the opinion of the Commissioners, the whole, or any portion of any estate, is not capable of a fair and equal division among the distributees, the said Commissioners shall make a special return of such property to the court, with the value thereof duly appraised by them. Upon such return being made to the court, any one or more of the distributees at a regular term of the court by the payment to the executor or administrator of the appraised value of the property so returned as incapable of division; or on the execution of his or their obligations with one or more good and sufficient sureties in favor of each of the other distributees for their share of the appraised value of such property, payable at such time, not exceeding twelve months from the date thereof, as the court may designate: provided, the court may think it for the interest of the distributees to allow a credit, shall have the right to take the said property.

Should any one or more of the distributees take the said property as aforesaid, it shall be the duty of the court to enter a decree stating the facts; and on the entry of such decree the property shall vest as fully and absolutely in the person or persons taking the same as the deceased was vested therewith: provided, nevertheless, that when obligations are executed as aforesaid, a lien shall exist upon such property by operation of law; to secure the payment of such obligations; provided, also, that if any of the distributees shall file in the court, his exception to the appraisement of the Commissioners, before any of the distributees shall have so taken such property, a new appraisement of said property shall be made by order of the court. If no distributee take the said property as aforesaid, the court shall order the sale of said property, either for cash, or on a credit as may be most for the interest of the distributees; and at such sale, if any distributee shall bid off any of said property, he shall be required to pay or secure, as the case may be, only such amount of his bid as may exceed the amount of his share of such property; and the proceeds of sale, when collected, shall be distributed by the court among those entitled thereto.

Sec. 100. That said Commissioners having divided the whole or any part of the estate, shall make to the court a report in writing, subscribed and sworn to by them, containing a statement of the property divided by them; and also a particular description of the property allotted to each distributee, and its value. And if it be real estate that has been divided, said report shall contain a general plat of such land, with the divisional lines plainly set down, and the number of acres in each share. Upon the return of such report, it shall be the duty of the court, at some regular term, to examine said report carefully; and if it be merely informal; to cause said informality to be corrected: and if such division shall appear to have been fairly made according to law, and no valid exceptions are taken to it, the court shall approve it, and order it to be recorded; but if said division shall not appear to have been so made, or any valid exceptions are taken to it, the court shall set aside said report and division, and order a new partition to be made.

Sec. 101. That when any portion of the estate to be partitioned lies in a distant county, and cannot be fairly partitioned without a view thereof, and it is inconvenient for the Commissioners to go and examine such property, they may report such facts to the Chief Justice in writing; whereupon he may at some



regular term of the court, if satisfied that the said property cannot be conveniently divided, or that its sale would be more advantageous to the distributees, order a sale thereof for cash, or on a credit of not more than twelve months, at his discretion; and when the proceeds of such sale shall have been collected, they shall be distributed, by him, among those entitled thereto; but if no such proof be made, three or more commissioners may be appointed in each county where any portion of the estate so reported is situated—and the same proceedings shall be had thereon, as is provided in this act for Commissioners to make partition.

Sec. 102. That when any husband or wife shall die leaving any common property, the survivor may at any time after letters testamentary or of administration have been granted and an inventory of the estate of the deceased has been returned, make application to the court from which such letters were granted, for a partition of such common property; and if he or she shall execute and deliver to said Chief Justice, an obligation with good and sufficient sureties, payable to, and approved by said Chief Justice, for an amount equal to the value of his or her interest in such common property, conditioned for the payment of one half of all debts existing against such common property; then the Chief Justice shall proceed to make a partition of said common property into two equal moities—one to be delivered to the survivor and the other to the executor or administrator of the deceased; and all the provisions of this act respecting the partition and distribution of estates, shall apply to any partition made under the provisions of this section so far as the same may be applicable; and whenever such partition may be made, a lien shall exist upon the portion of such survivor to secure the payment of the obligation he may have given as aforesaid; and until a partition shall be applied for as herein provided, the executor or administrator of the deceased shall have the right and it shall be his duty to recover possession of all of such common property, and hold the same in trust to be administered for the benefit of the creditors and others entitled thereto under the provisions of this act. After such partition any creditor of said common property may sue in his own name on such obligation, and shall have judgment thereon for the one half of such debt as he may establish; and for the other half he shall be entitled to be paid by the executor or administrator of the deceased.

Sec. 103. That in all cases where commissioners to make

partition are appointed under this act, the report of any three of them shall be sufficient. All such Commissioners shall receive two dollars each, for every day they may be engaged, and all their reasonable expenses shall be paid them.

Sec. 104. That in any case where the Chief Justice shall appoint a guardian ad litem for minors, or any attorney to represent the persons absent from the State, or unknown under the provisions of this act,—if such guardian ad litem, or attorney shall neglect to attend to the duties of such appointment, the Chief Justice shall appoint others in their places by an order entered on the minutes of the court; and such guardian ad litem, and attorneys shall be allowed by the Chief Justice, a reasonable compensation for their services, which shall be paid out of the estate of the person they represent, and the Chief Justice may order execution to issue for the same.

Sec. 105. That all expenses incurred in the partition of estates shall be paid by the parties interested in the partition—each party paying in proportion to the share he may receive. The portion of the estate allotted to each distributee, shall be liable for his or her portion of the expenses; and if not paid, the Court shall have power to order execution therefor in the names of the persons entitled thereto.

Sec. 106. That any person or persons having a joint interest with the estate of a decedent in any property, real or personal, may make application to the County Court from which letters testamentary or of administration have been granted on said estate, to have a partition thereof—whereupon the Court shall proceed to make a partition of said property between the applicant or applicants and the estate of the deceased; and all the rules and regulations contained herein, in relation to the partition and distribution of estates, shall govern partitions under this section, so far as the same may be applicable.

Sec. 107. That when the report of any Commissioners to make partition shall have been approved and ordered to be recorded, the Court shall order the executor or administrator to deliver to the distributees their respective shares of the estate on demand—including all the title deeds and papers belonging to the same. If any distributee be a minor, his share shall be delivered to his guardian. If any minor distributee, resident of the State of Texas, shall have no guardian, the executor or administrator shall retain his share until a guardian shall be appointed, and he shall be allowed by the Court reasonable com-

pensation for taking care of the same. If any executor or administrator shall neglect to deliver to the person entitled thereto, his agent or attorney, when demanded, any portion of an estate so ordered to be delivered, such executor or administrator shall be liable to pay, out of his own estate, to the person so entitled, damages, on the amount of his share, at the rate of ten per cent. per month, for each and every month he shall so neglect to deliver such share, after such demand—which damages may be recovered by suit, before any Court of competent jurisdiction.

Sec. 108. That if any person entitled to a portion of an estate shall not demand the same from the executor or administrator, within six months after the report of the commissioners of partition has been approved and ordered to be recorded, the Chief Justice shall order so much of such portion as may be in money to be paid to the Treasurer of the State; and such portion as may be in other property, the Chief Justice shall order the executor or administrator to sell on such terms as he may think best; and when the proceeds of such sale are collected, he shall order the same to be paid to the Treasurer of the State—in all such cases allowing to the executor or administrator, reasonable compensation for his services.

Sec. 109. That whenever any executor or administrator shall file in the Court receipts showing that he has disposed of any portion of the estate under the provisions of this act, the Court shall order the same to be recorded; and whenever he shall have so filed receipts showing that all of the estate has been disposed of by him under the provisions of this act, he shall be finally discharged from his trust by the Chief Justice.

Sec. 110. That any person capable of making a will, may so provide by his will, that no other action shall be had in the County Court, in relation to the settlement of his estate, than the probate and registration of his will and the return of an inventory of the estate; but in all such cases, any person having a debt against said estate may, by complaint in writing, filed in the Court where such will was proved, cause all the persons entitled to any portion of such estate under the will, or as heirs at law, to be cited to appear before such Court at some regular term, and execute an obligation, with two or more good and sufficient sureties, for an amount equal to the full value of such estate to be ascertained by the inventory; such obligation to be payable to the Chief Justice, and conditioned that the persons who execute the obligation shall pay all debts that may be esta-

blished against such estate, in the manner herein provided; and on the return of such citations, served, unless such persons so entitled to any portion of the estate, or some of them, or some other persons for them, shall execute such obligation to the satisfaction of the Chief Justice, such estate shall be settled under the direction of the Court as other estates are required to be settled; but if such obligations shall be executed, it shall be filed and recorded in said Court, and no other action shall be had in said Court in relation to such estate. All costs of such proceedings shall be paid by the persons so entitled to such estate, according to their respective interests in it. Every creditor of such estate shall have the right to sue on such obligation, and shall be entitled to judgment thereon, for such debt as he may establish against the testator by a verdict of the jury in such suit; or such creditors may have their action against those in possession of the estate.

Sec. 111. That at any time after the return of the inventory of the estate of a deceased person, any one entitled to a portion of said estate, as heirs, devisee, or legatee, or his or her guardian, if he or she be a minor, may, by a complaint in writing, filed in the Court where such inventory has been returned, cause the executor or administrator of the estate to be cited to appear at some regular term of the Court and render an exhibit, under oath, of the condition of such estate; and on the return of such citation served, the person so entitled to such estate, or any of them or any other persons for them may execute and deliver to the Chief Justice, an obligation payable to him, with two or more good and sufficient sureties, to be approved by the Chief Justice, for an amount at least equal to the appraised value of the estate as ascertained by the inventory, conditioned, that the persons who execute such obligation shall pay all debts against the estate not paid, that have been allowed by the executor or administrator, and approved by the Chief Justice, or that have been established by suit against the executor or administrator, or that may be established against the estate by suit in the manner herein provided, and may pay to the executor or administrator any balance that may be decreed to be due to him, on his exhibit, in obedience to said citation; whereupon such obligation shall be filed and recorded in said Court; and the Court shall on the application of any of the persons so entitled to any portion of the estate, cause a partition and distribution of such estate to be

made among the persons entitled thereto, in accordance with the provisions of this act, respecting the partition and distribution of estates; and a lien shall exist on all of said estate in the hands of the distributees, to secure the ultimate payment of the aforesaid obligation. Any creditor of such estate, whose claim is yet unpaid, and has been allowed by the executor or administrator, previous to the filing of such obligation, and approved by the Chief Justice, or established by suit against the executor or administrator, previous to the filing of such obligation, shall have the right to sue on such obligation in his own name, and shall be entitled to judgment thereon for the amount of his claim: or any other creditor of such estate, whose claim is not barred by the laws of limitation, shall have the right to sue on such obligation, and shall be entitled to judgment thereon, for such debt as he may establish against the estate by a verdict of the Jury in such suit: or any of said creditors may sue the distributees, but no one of them shall be liable beyond his just proportion, according to the estate he may have received in the distribution.

Sec. 112. That when a person dies, leaving a lawful will, all of his estate devised or bequeathed by such will, shall vest immediately in the devisees or legatees; and all the estate of such person, not devised or bequeathed, shall vest immediately in his heirs at law; but all of such estate, whether devised or bequeathed, or not, except such as may be exempted by law from the payment of debts, shall still be liable and subject, in their hands, to the payment of the debts of such testator: and whenever a person dies intestate, all of his estate shall vest immediately in his heirs at law; but, with the exceptions aforesaid, shall still be liable and subject, in their hands, to the payment of the debts of the intestate. But upon the issuance of letters testamentary or of administration, on any such estate, the executor or administrator shall have a right to the possession of the estate, as it existed at the death of the testator or intestate, with the exception aforesaid; and it shall be his duty to recover possession of and hold such estate in trust, to be disposed of under the provisions of this act.

Sec. 113. That the bond of an executor or administrator of any kind, shall not become void on the first recovery, but may be put in suit and prosecuted from time to time until the whole amount thereof shall have been recovered. Such suit may be brought and prosecuted by any administrator of the estate not

administered, in his own name as administrator, whenever the estate he represents has been injured by the breach of the bond of the executor or any previous administrator of the estate; or any other person or persons, injured by a breach of any such bond, may bring suit thereon in their own name; and any number of such persons may join in such suit.

Sec. 114. That all suits, on the bond of any executor or administrator shall be commenced and prosecuted within four years next after the death, resignation, removal or discharge of such executor or administrator, and not thereafter: Provided, however, that infants, femes covert, and persons non compos mentis, shall have at least two years within which to institute such suits after the removal of their respective disabilities.

Sec. 115. That when an administrator of the estate not administered, has been or shall be hereafter, appointed, he shall succeed to all the rights, powers and duties of the former executor or administrator, except such rights and powers conferred on the former executor, by the will of the testator, as are different from those conferred by this act on executors generally: and such administrators shall have power to make themselves parties to all suits prosecuted by the former executor or administrator of the estate, and may be made parties to all suits prosecuted against the former executor or administrator of the estate: They shall have power to settle with the former executor or administrator of the estate and to receive and receipt for all such portion of the estate as remains in their hands: they shall have power to bring suit on the bond or bonds of the former executor or administrator in their own name as administrator for all the estate that has not been accounted for by such former executor or administrator; and they shall proceed to administer such estate in like manner as if their administration was a continuation of the administration of the former executor or administrator, with the exceptions herein before named; but such administrators shall, within one month after their being qualified, return an inventory and list of claims, in like manner as is required in this act, for original administrators, and they shall also in like manner, return additional inventories and lists of claims; and whenever an executor shall accept and qualify, after letters of administration shall have been granted, such executor shall in like manner succeed to the previous administrator: and he shall proceed to administer the estate in like manner as if his administration

was a continuation of the former one; subject, however, to any legal directions of the testator, in relation to the management of the estate.

Sec. 116. That whenever, under the provisions of this act, an administrator pro tem. shall have been appointed, and an executor shall afterwards be qualified, or an administrator appointed, such executor or administrator shall succeed and be made a party to all suits and actions prosecuted by, or against such administrator pro tem.; and such executor or administrator shall have the right to settle with such administrator pro tem., and receive and receipt for all the estate remaining in his hands; and shall have the right to sue, in like manner as is provided for in the previous section, on the bond of such administrator pro tem., for all the estate not accounted for by him.

Sec. 117. That all proceedings in relation to the settlement, partition and distribution of estates, that now remain unsettled in the Probate Courts of the several counties in this State, shall be had in the County Court, and shall from this time forward, proceed and be concluded, under the provisions of this act.

Sec. 118. That the provisions contained in this act respecting the presentation of claims, shall not be so construed as to apply to the claim of any heir, devisee or legatee, when claiming in that capacity; and any devisee or legatee may obtain from the Chief Justice of the Court where the will was proved an order for the executor to deliver to him the property devised or bequeathed, whenever it shall appear to such Chief Justice that there will remain in the hands of the executor after such delivery, a sufficient amount of the estate for the payment of all debts against said estate; provided, such devisee or legatee shall have first caused the executor, and the other devisees and legatees, if any, and the heirs if any of the estate is coming to them, to be cited to appear and show cause why such order should not be made.

Sec. 119. That when complaint shall be made in writing, to any Chief Justice, that any person has the last will of any testator or testatrix, or any papers belonging to the estate of a testator or intestate, said Chief Justice shall cause such person to be cited to appear before him, either in term time or in vacation, and show cause why he should not deliver such will to the Court for Probate; or why he should not deliver such papers to the executor or administrator: and upon the return of

such citation, served, unless such will or papers are so delivered, or good cause be shown to the Court for not delivering the same. The Chief Justice, if satisfied that such person had such will or papers, at the time of the complaint being filed, may cause him to be arrested and imprisoned until he so deliver them.

Sec. 120. That all the provisions in this act relative to an executor or administrator, shall apply and extend to an executrix or administratrix, or executors or administrators respectively, unless otherwise expressly provided for; and whenever any party in the singular number, or a male party is mentioned, the rule shall apply to a female, or to two or more having a joint interest, or jointly concerned, applying or called upon, so far as the rule can with propriety apply, or so far as is not otherwise directed.

Sec. 121. That any one interested in the estate of a deceased person, may at any time within two years after the settlement by the Chief Justice of any account of the executor or administrator of such estate, have the same revised and corrected by the District Court of the County in which the letters of such executor or administrator were granted, upon making proof before such District Court, that there was any error or fraud in such account or settlement: Provided, that he shall first obtain from the Clerk of the Court in which such account was settled, a transcript of all the papers relating to such account and settlement, and file the same with a petition in the office of the Clerk of said District Court, and cause such executor or administrator, or his legal representatives to be cited as in other suits in said District Court.

Sec. 122. That all decisions, orders, decrees and judgments, of the County Court, under the provisions of this act, shall be entered on the records of the Court by the Clerk, at the time such decision, order, decree or judgment shall be made or recorded.

Sec. 123. That any person who may consider himself aggrieved by any such decision, order, decree or judgment, shall have the right to appeal to the District Court of the County: Provided, he shall within fifteen days after such decision, order, decree or judgment, shall have been made and rendered, file with the Clerk of said Court, a bond for costs and damages, with good and sufficient sureties payable to the Chief Justice in such sum as he shall require, and to be approved by said



Chief Justice; conditioned that the appellant shall prosecute said appeal to effect, and perform the decision, order, decree or judgment, which the District Court shall make thereon, in case the cause shall be decided against him.

Sec. 124. That upon such appeal bond being filed in the Clerk's office, it shall be his duty immediately to make out a certified transcript of the proceedings in the case, and transmit the same to the District Court.

Sec. 125. That in case the Clerk of the County Court shall be unable for want of time to make out such transcript before the first day of the next term of the District Court of the county, after such appeal is taken, then such transcript shall be transmitted to the next succeeding term of said Court.

Sec. 126. That in all cases where an executor or administrator shall neglect the performance of any duty required by this act, and shall be cited to appear before the Court on account thereof, he shall be liable for all costs of such proceeding out of his own estate; and whenever an executor or administrator shall be removed for any of the causes set forth in this act, he shall be liable in like manner for all costs attending such removal.

Sec. 127. That in all cases where a party shall file any application, complaint or opposition in the Court under the provisions of this act, and on the trial thereof he shall be defeated or fail in the object for which his application, complaint or opposition was filed, he shall be liable for all costs occasioned by the filing of his application, complaint or opposition.

Sec. 128. That the Chief Justice shall have power to enforce obedience to all his lawful orders against executors or administrators by attachment and imprisonment: Provided, no such imprisonment shall exceed three days for any one offence; he shall also have power to order the clerk to issue execution against the estate of an executor or administrator, in favor of any person to whom money has been ordered to be paid by such executor or administrator: such execution shall be made returnable in sixty days—shall be tested and signed by the clerk, and sealed with the seal of the Court; and may be directed to the sheriff or other lawful officer of any county in the State; and all proceedings under such executions shall be governed by the laws regulating proceedings under executions issued from the District Court, so far as the same may be applicable.

Sec. 129. That in all proceedings in the County Court, arising under the provisions of this act, the depositions of witnesses may be taken and read in evidence under the same rules and regulations as in the District Court; and all laws in relation to witnesses and evidence, which govern the District Court, shall apply to all proceedings in the County Court under the provisions of this act, so far as they are applicable.

Sec. 130. That in all cases under the provisions of this act, where it is necessary to cite any person who is out of the limits of this State, and the manner of citing such person is not herein otherwise provided for, such person may be cited by publication in like manner as in the District Courts.

Sec. 131. That each Clerk of the county Court shall receive and file all applications, complaints, petitions, and all other papers permitted or required to be filed in said Courts under the provisions of this act, and shall endorse on each the date when it was filed, and sign his name to such endorsement: he shall issue all necessary notices, citations, writs, and process from said Court, without any order from the Chief Justice, unless such order is required by some provision of this act.

Sec. 132. That whenever complaint in writing, and under oath, shall be made to the Chief Justice by any person interested in the estate of a decedent, that the executor or administrator of such estate is about to remove the same or any part thereof, out of the limits of this State, such Chief Justice shall have power to order a writ to issue, directed to any lawful officer of this State, commanding him to seize such estate or any part thereof, and hold the same, subject to such further order as the Chief Justice may make on such complaint: Provided, That no such writ shall issue unless the complainant shall give bond, with good and sufficient security, payable to the executor or administrator, conditioned for the payment of all damages that may be recovered for the wrongful suing out such writ.

Sec. 133. That the provisions of this act respecting the presentation of claims shall not be construed to apply to any claim of an executor or administrator against his testator or intestate, that has not been allowed by some previous executor or administrator of the same estate; but any executor or administrator holding any such claims, shall file them in the Court from which his letters were granted on or before the sixth term of the Court after the original grant of letters, or the

same shall be barred. The Chief Justice shall, at said term, or at some subsequent term, proceed to examine such claims, and hear all legal evidence that may be offered in support of them, and if satisfied from the evidence that such claims, or any of them, are just, he shall enter on the minutes of the Court his approval of such of them as he may think just; and the amount so approved shall be paid in due course of administration; unless, within three months after such approval, some person interested in the estate shall take an appeal from such approval to the District Court; in which case, such account, or so much thereof as may be approved by a jury, shall be paid in due course of administration: If such claims or any of them shall not be approved by the Chief Justice, the executor or administrator may appeal to the District Court in like manner, and such amount as may be approved by a jury, shall be paid in due course of administration: If, in any appeal under the provisions of this section, the executor or administrator shall fail to establish the whole of his claim, he shall be liable for costs; but if he establish the whole amount of his claim, the costs shall be paid out of the estate of the testator or intestate.

Sec. 134. That the Chief Justices of the several County Courts shall have like power to enforce all orders, decrees and judgments heretofore made and rendered in the Probate Court of their county, as they would have if such orders, decrees and judgments had been made or rendered by them under the provisions of this act.

Sec. 135. That the rights, powers and duties of executors and administrators shall be governed by the principles of the Common Law, where the same does not conflict with the provisions of this act.

Sec. 136. That in all cases where a Chief Justice may have been executor or administrator of an estate, in the county where, and at the time he was elected; or, when a Chief Justice may wish to probate a will, and accept as the executor of the estate of a testator, in the county where he officiates; or when he may be entitled to a distributive share of an estate that is to be settled in his Court, any two of the County Commissioners shall have power to do all acts pertaining to the settlement, partition and distribution of such estates, that might be done by the Chief Justice.

Sec. 137. That this act shall take effect and be in force on and after the first Monday in August, 1848; and on and after

that day, "An Act to organize Probate Courts," passed 11th May, 1846, shall be, and is hereby, repealed.

Approved, March 20, 1848.

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## CHAPTER 158.

### An Act to provide for the organization of New Counties.

Section 1. Be it enacted by the Legislature of the State of Texas, That whenever any new county shall hereafter be established, it shall be the duty of the County Court from which the territory of such new county, or the greater part thereof, was taken, at least one month previous to the general election for county officers, next after such new county shall have been established to lay off and divide such new county into convenient precincts, for the election of Justices of the Peace and Constables, defining particularly the boundaries of such precincts, and also, to designate convenient places in such new county, where elections shall be held: of all which they shall cause a record to be made by the Clerk and a copy thereof shall be transmitted to the Chief Justice of such new county, when elected.

Sec. 2. That it shall be the duty of the Chief Justice of every county of this State, from which any new county has been so taken, at least one month previous to the general election of county officers next after such new county has been established, to order an election to be held in such new county, on said general election day, for all county officers authorized to be elected by the people of such new county, and to appoint a presiding officer for each place designated in such new county for holding elections; such order of elections shall specify the number of precincts, their boundaries, and the officers to be elected in such county. Such presiding officer shall hold such elections in accordance with the laws regulating elections, and shall make three returns to the Chief Justice who ordered such election, who shall open and examine such returns and give certificates to the persons elected. ;

Sec. 3. That in all cases where the office of Chief Justice

shall be vacant, any two of the County Commissioners shall be authorized to perform all the duties required of Chief Justices by the provisions of this act.

Sec. 4. That in all cases, where new counties have been established by this Legislature, and no other provision has been made, for the organization of such counties, they shall be organized under the provisions of this act, and this act shall take effect and be in force from and after its passage.

Approved, March 20, 1848.

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CHAPTER 159.

An Act to regulate proceedings in the County Courts, relating to guardians and wards.

Section 1. Be it enacted by the Legislature of the State of Texas, That in all cases not otherwise provided for by law, the father while living and after his death, and when there shall be no lawful father, then the mother, if living, shall be entitled to the guardianship of their minor children, and shall have the custody of their persons, education and estates: Provided, That if such estates are given to such minor children by any other person than such parent, the father or mother entitled to such guardianship shall give bond with security, take the oath and return an inventory as hereinafter prescribed for other guardians.

Sec. 2. That if a minor have no parents living, or the parents be adjudged according to law, incompetent or unfit for the duties of guardian, the Chief Justices in their respective counties shall appoint guardians to such minor under the age of fourteen years, and admit those over that age to choose guardians for themselves, subject to the approval of the said Chief Justice.

Sec. 3. That whenever it shall come to the knowledge of any Chief Justice in this State, that there is within his county, any minor without any legal or natural guardian, if such minor be under the age of fourteen years, such Chief Justice shall appoint a guardian for such minor; but if such minor shall be over the age of fourteen years, the Chief Justice shall cause a

citation to be issued and served on such minor, to appear before him at some regular term of the County Court and choose a guardian; and if such minor, after service of such citation shall neglect to appear, or to choose a guardian after appearing, the said Chief Justice shall appoint one. If such minor appears and makes choice of a guardian, and the Chief Justice is satisfied that the person chosen is suitable and competent, the person so chosen shall be appointed; but if the choice shall not be approved by the Chief Justice, he shall appoint some competent and suitable person to be guardian for such minor.

Sec. 4. That whenever the Chief Justice shall be satisfied that it will be for the advantage of a minor, to appoint a guardian of the estate of such minor, different from the guardian of the person he shall have power to make such separate appointment for a minor under the age of fourteen years, and to allow a minor over that age to make such separate choice, subject to the approval of such Chief Justice, as heretofore directed.

Sec. 5. That when a minor shall be entitled to, or possessed of any estate not derived from the parent who shall be the natural guardian at the time, and it shall be shown to the Chief Justice of the County, that such parent is incompetent to the care of such estate, or is mismanaging or wasting the same, such Chief Justice shall cause a citation to be issued and served on such parent to appear before him at some regular term of the County Court, and show cause why a guardian of the estate of such minor should not be appointed or chosen, and if, after service of such citation, no sufficient cause be shown, such Chief Justice shall appoint a guardian of the estate of such minor if under fourteen years of age, or if over that age, admit the minor to choose one in the same manner, and subject to the same restrictions as herein provided for minors over fourteen years of age.

Sec. 6. That a minor, having a guardian of his person or of his estate appointed by the Chief Justice upon attaining the age of fourteen years, may choose another guardian of his person or of his estate, before the Chief Justice in the County of such minor's residence; and if such Chief Justice is satisfied that the person chosen is suitable and competent, the appointment shall be made accordingly.

Sec. 7. That if any person who has been appointed a guardian by will, shall fail to appear before the Court where the will was probated, and accept of such appointment and obtain letters of guardianship, within six months after the probate of the

will, such appointment shall be considered as if it had never been made by the testator.

Sec. 8. That no appointment of a guardian shall be made by the Chief Justice, except at a regular term of the County Court, and after ten days' notice has been given by the Clerk of said Court, by posting a notice at the Court house and two other public places in the County, such notice shall state the person for whom a guardian is to be appointed, and the term of the Court when an appointment will be made: Provided, That this section shall not apply to the appointment of a guardian ad litem.

Sec. 9. That every appointment of a guardian shall specify whether it be of the person or of the estate or of both the person and estate of the minor; and every guardian shall continue in office, unless sooner discharged according to law, until the minor, if a male, shall arrive at the age of twenty-one years, and if a female, until her marriage or arrival at the age of twenty-one years, whichever shall first happen. All letters of guardianship shall be signed by the Chief Justice, and attested by the Clerk of the County Court with the seal of said Court, and such letters, or a certificate of the Clerk of said Court, attested by the seal of said Court, stating that such letters have issued according to law, shall be evidence of the appointment of a guardian.

Sec. 10. That every person who may be appointed guardian of the estate of a minor, whether by last will or by the Chief Justice, shall before entering upon the duties of his appointment take and subscribe an oath, or affirmation, in substance as follows:—I, A. B., do solemnly swear that I will, well and truly, perform the duties of guardian of the estate, or of the person and estate, as the case may be, of the minor C. D.; which oath or affirmation may be taken and subscribed, either before the Chief Justice or the Clerk of the County Court, in term time or in vacation, and shall be filed and recorded on the minutes of the Court.

Sec. 11. That every person who may be appointed guardian of the estate of a minor, whether by last will, or by the Chief Justice, shall before entering upon the duties of his guardianship, enter into bond with two or more good and sufficient sureties, payable to, and approved by, the Chief Justice of the County, in a sum equal to at least double the estimated value of the estate of such minor, conditioned for the faithful discharge of the duties of such guardianship, according to law: Provided,

however, That when an appointment is made by will and directions are given in such will that the person so appointed shall not be required to give security, then the Chief Justice may grant letters of guardianship to the person so appointed, without bond and security. When an oath and bond is required from a parent who is entitled to the guardianship of his or her child, such bond and oath may be in substance the same, as the oath and bond prescribed in this act, for other guardians, varying the form to suit the circumstances of the particular case.

Sec. 12. That the following form may be used for the bonds of guardians:

The State of Texas, } Know all men by these presents, that  
 County of A. } we, B. C., as principal, and D. E. and  
 F. G., as sureties, are held and firmly bound unto the Chief Justice  
 of the County of A., in the sum of                    dollars, and  
 cents, for the payment of which, well and truly to be made, we  
 bind ourselves, our heirs, executors and administrators, jointly and  
 severally, firmly by these presents, signed and sealed with our seals,  
 the seals being scrawls, this the            day of            , A. D. 18    .  
 The condition of the above obligation is such that whereas the  
 above bounden B. C. has been appointed by the last will of H.,  
 deceased, guardian of the estate or of the person and estate, or has  
 been appointed by the Chief Justice of the County of A., guardian  
 of the estate, or of the person and estate, as the case may be, of the  
 minor L. M. Now if the said B. C. shall well and truly perform  
 all the duties required of him by law under said appointment, then  
 this obligation shall be null and void: otherwise to remain in full  
 force and effect.

B. C. [SEAL.]  
 D. E. [SEAL.]  
 F. G. [SEAL.]

Sec. 13. That the bonds of guardians may be taken and ap-  
 provided either in term-time or in vacation, at any time within  
 twenty days after the order is made for the appointment of a guard-  
 ian or for the issuance of letters of guardianship and should any  
 person appointed a guardian fail to take and subscribe the oath or  
 affirmation, and to give bond in cases where a bond is required,  
 within twenty days after the order of appointment or the order for  
 the issuance of letters is made, such order shall be revoked by the  
 Chief Justice without notice, and all bonds of guardians shall be  
 filed and recorded in the minutes of the Court.



Sec. 14. That the Chief Justices of the several Counties of this State, shall have power to require new bonds of guardians in all cases where they have power to require new bonds of executors or administrators, and under the same rules and regulations, and with like effect.

Sec. 15. That every guardian of a minor shall immediately after the commencement of his guardianship, make out, with the assistance of appraisers, to be appointed by the Chief Justice, an inventory and appraisement of all the estate of his ward that has come to his knowledge; which appraisement shall be sworn to by the appraisers, and such guardian shall also make out a list of all claims and debts owing to his ward, which inventory and list of claims shall be sworn to by such guardian, and returned to the Court having jurisdiction of his guardianship, within sixty days after the commencement of his duties; such inventory and list of claims may be returned either in term-time or vacation, but when returned, shall be noted on the minutes of the Court, and shall be filed and recorded by the Clerk.

Sec. 16. Be it further enacted, That whenever any guardian shall discover any estate of his ward that has not been inventoried and appraised, or any claims or debts owing to his ward that have not been included in the list returned, he shall forthwith make out and return an additional inventory and appraisement of such estate, and list of such claims or debts, and whenever it shall be shown to the Chief Justice that any guardian has not returned to the court an inventory and appraisement of all the estate of his ward, and a list of all the claims and debts owing to his ward, such Chief Justice shall cause such guardian to be cited, either in term time or in vacation, and require him to return an additional inventory and appraisement of such estate and list of such claims and debts, and all such additional inventories and appraisements and lists of claims and debts, shall be made out, sworn to, returned, and recorded in the manner prescribed by law, for original inventories, appraisements, and lists of claims.

Sec. 17. Be it further enacted, That such inventories, appraisements and lists of claims may be given in evidence in any suit by or against such guardians, but they shall not be conclusive against the minor if it be shown that there is other property of the minor or other claims or debts due the minor not included therein, or if it be shown that the estate or claims or debts were actually worth more than the value at

which they are set down in such inventories appraisements and lists.

Sec. 18. Be it further enacted, That the Chief Justice shall appoint appraisers of the estates of minors in the same manner as appraisers of the estates of deceased persons, and all the rules and regulations respecting appraisers of the estates of deceased persons, shall apply to appraisers of the estates of minors.

Sec. 19. Be it further enacted, That every guardian of the estate of a minor shall use ordinary diligence to collect all claims or debts owing to his ward, and to recover possession of all property to which such ward has a title or claim, provided there is reasonable prospect of collecting such claims or debts, or of recovering such property, and if any guardian shall neglect to use such diligence, he and the sureties on his bond shall be liable for all damages occasioned by such neglect.

Sec. 20. Be it further enacted, That it shall be the duty of every guardian of the estate of a minor, to take care of and manage such estate in such manner as a prudent man would manage his own estate; and all necessary and reasonable expenses incurred by such guardian in the safe keeping, preservation and management of his ward's estate, and all necessary and reasonable expenses incurred by him in collecting claims or debts due to his ward, or in recovering property to which his ward has a title or claim, shall be allowed to such guardian by the Chief Justice, on proper proof, to be paid out of the estate of his ward; and every such guardian shall account to his ward for all such rents and profits and revenues as the estates would have produced by such prudent management.

Sec. 21. Be it further enacted, That every guardian of the person of a minor shall be entitled to the charge, custody and control of the person of his ward, and the care of his education, support and maintenance: every guardian of the estate of a minor, shall be entitled to the possession and management of his estate; shall have authority to receive all debts, rents and things in action, due or belonging to his ward, to sue and defend for his ward in all suits or actions necessary to be prosecuted for or against him; and in the management of such estate, such guardian shall be governed by the provisions of this act. Every guardian of the person and estate of a minor shall have all the rights and powers, and shall perform all the duties both

of a guardian of the person and a guardian of the estate of a minor.

Sec. 22. Be it further enacted, That whenever a guardian of the estate of a minor shall die, resign his trust or be removed in any manner, the person who may be appointed guardian of the estate of such minor, shall succeed to all the rights, powers and duties of the previous guardian; he may be made a party to all suits or actions by, or against any previous guardian; he shall have the right to recover from any previous guardian, all the estate of his ward, and to receipt for the same; and may sue in his own name on the bond of any previous guardian for all such estate of his ward as has not been accounted for by any previous guardian.

Sec. 23. Be it further enacted, That every guardian of the estate of a minor shall put the money of his ward to interest upon mortgage on real estate, to be approved by the Chief Justice, or he may with leave of such Chief Justice, and the assent of his sureties, retain the money in his hands, paying interest therefor: But if no person can be found to take the money upon interest and the guardian should not choose to retain the same paying interest, he shall be liable for the principal only, until the same can be put to interest. Every such guardian shall loan the money of his ward at the highest rate of interest that can be obtained, not exceeding twelve per cent. per annum, and shall account for all interest which shall be charged in their annual settlement.

Sec. 24. Be it further enacted, That the Chief Justice shall order all minors under his jurisdiction to be properly supported and educated, according to the means of such minor, and for that purpose shall from time to time make the necessary appropriations out of the estate of such minors, and when necessary to raise means for the support and education of such minors, or to pay debts against their estate, may order the sale of any personal property of such minor, other than slaves, and the Chief Justice may also order the sale of any perishable property, of a minor, that is liable to waste or to be injured by keeping, if he shall be satisfied that such sale will be for the interest of such minor.

Sec. 25. Be it further enacted, That whenever any guardian of the estate of a minor shall represent to the Chief Justice that such minor has not sufficient means for his proper support and education, or to pay the debts against his estate without a sale

of some portion or all of the real estate or slaves of such minor, such Chief Justice, if satisfied of the truth of such representation, shall order a citation to be published in some newspaper printed in the county, if there be one, if not, then in some newspaper printed in the nearest adjoining county where there is one, for four successive weeks, which citation shall state the application for such sale, the property sought to be sold, and the term of the court when the application will be acted on, and shall require all persons interested in the welfare of such minor to appear and show cause why such sale should not be made as applied for at the term of the court named in such citation, or at some subsequent term of the court to which the application may have been continued, the Chief Justice, if satisfied that the citation has been published according to law, shall proceed to hear the application, and any opposition that may be made thereto, and if satisfied that a necessity exists for a sale of any such property, he shall order it accordingly.

Sec. 26. Be it further enacted, That all sales of a minor's property that may be ordered by the Chief Justice, under the provisions of this act, shall be made by the guardian of the estate of such minor in the same manner, and with the same effect as sales are required to be made by executors and administrators, all the rules, regulations and provisions respecting sales by executors or administrators shall apply to and govern sales by guardians, so far as the same are applicable and not inconsistent with the provisions of this act.

Sec. 27. Be it further enacted, That every guardian of the estate of a minor shall annually make an exhibit of the condition of the estate of his ward, to the County Court of the county that has jurisdiction of the matter; and shall also annually make a settlement of his accounts as guardian with such Court, beginning at the first term of said Court after the end of the year from the commencement of his duties, and at each corresponding annual term, until his final settlement, and the like notice shall be given of such settlement as is required to be given for the settlement of accounts of executors and administrators; and in such settlements, guardians of the persons of the minor shall render a statement under oath, supported by proper vouchers, of the application of all money directed by the Chief Justice to be applied by them to the support and education of their wards: and any guardian neglecting or refusing to make such settlement and statement on oath.

as is herein required, shall be liable to be attached and imprisoned until he shall make such statement and settlement, provided he shall first have been cited to appear and make such settlement and statement.

Sec. 28. Be it further enacted, That whenever the guardian of the estate of a minor shall consider that it will be for the interest of his ward, that he should execute any bond that may be required by law, in order to obtain a partition of any estate in which such minor may be entitled to a distributive share, he may present a petition to the Chief Justice at some regular term of the court, setting forth such facts, and if the Chief Justice shall be satisfied that the execution of such bond will benefit such minor, he may order him to execute such bond, and any bond executed by a guardian in pursuance of such order, shall bind the estate of such ward in like manner as if executed by himself after he was of full age.

Sec. 29. Be it further enacted, That the Chief Justice may authorize any guardian of the estate of a minor under his jurisdiction to purchase property, for the use of his ward, in payment of any debt due to such ward in all cases where he shall be of opinion that the interest of the ward will be advanced thereby.

Sec. 30. Be it further enacted; That the Chief Justice of every county in this State shall have power to cite any guardian under his jurisdiction, and require him to render an account of his guardianship, as often as he may think such exhibit necessary; and such Chief Justice shall have power at a regular term of the court to remove any guardian whenever he shall be guilty of any gross neglect of duty, or whenever he shall mismanage, misapply or waste the estate of his ward, or whenever he shall remove out of this State, or whenever he shall fail to comply with any lawful order of the Chief Justice in relation to the estate of his ward; but in all such cases the guardian shall be first cited, and they may either in term-time, or in vacation, suspend any guardian from the exercise of any of his duties for any of the causes named in this section.

Sec. 31. Be it further enacted, That the several Chief Justices of this State shall have power to order any property or estate that may come to the possession of a guardian as such, and shall be in his possession at the determination of his guardianship to be delivered to the person who was his ward, his executor or administrator, and to enforce the same by attachment

and imprisonment not exceeding three days; and they shall also have power, on the application of any ward, when he shall become entitled to have the possession of his estate, to cite the guardian to such ward to appear and make a final settlement of his guardianship, and to enforce such final settlement and the payment of any balance that may be found to be due from a guardian on such final settlement, either by attachment and imprisonment not exceeding three days, or by execution in like manner as executions are authorized to be issued by them against executors and administrators.

Sec. 32. Be it further enacted, That each guardian of the estate of a minor, shall be allowed to retain in his hands a commission of five per cent. upon all sums that he actually receives or pays away in cash, for his services as guardian; and in case any such guardian shall control a plantation for his ward, the Chief Justice shall have power to allow him a reasonable compensation for such service.

Sec. 33. Be it further enacted, That in all cases where any guardian and his ward may both be residents of any other State or Territory of the United States, and such ward may be entitled to property of any description in this State, such guardian, on producing to the Chief Justice of the county where such property or the principal part thereof is situated, at some regular term of the County Court, a full and complete transcript from the records of a court of competent jurisdiction in the State or Territory, where he and his ward reside, certified as required by the law of the United States, showing that he has been appointed guardian, and has given bond and security in the State or Territory where he and his ward reside, in double the value of the property of such ward; and also showing to such Chief Justice that a removal of the property of such ward will not conflict with the terms or limitations attending the right by which the ward owns the same, then such transcript may be recorded in such court, and such guardian, shall be entitled to receive letters of guardianship of the estate of such minor from such Chief Justice, which shall authorize him to demand, sue for, and recover any such property, and remove the same to the place of residence of himself and his ward; and the Chief Justice may order any resident guardian, executor, or administrator, having any of the estate of such ward, to deliver the same to such non-resident guardian: Provided, All debts known to exist against

such estate have been first paid; And, provided, also, That the benefit of this section shall not extend to any citizen of any State or Territory in which a similar law does not now exist, or may not hereafter be passed.

Sec. 34. Be it further enacted, That when any guardian of the estate of a minor shall desire to remove the same from one county to another, in this State, the Chief Justice may permit him to do so by an order entered on the minutes of the Court; Provided, he shall have first obtained letters of guardianship from the Chief Justice of the county to which he proposes to remove such estate, together with a certificate from such Chief Justice, attested by the Clerk of the Court of such Chief Justice, and the seal of the county, stating that he has been so appointed, and has given bond and security in double the value of such estate, and has also filed in such Court a certified transcript of all the proceedings in relation to his guardianship.

Sec. 35. Be it further enacted, That if information in writing be given to any Chief Justice in this State, that any person in his county is an idiot, or lunatic, or is non compos mentis, and is incapable of managing his own affairs, and praying that an inquiry thereinto be had, and such Chief Justice shall believe such information to be true, he shall, at some regular term of the County Court, cause such person to be brought before him, and shall cause twelve competent jurors of the county to be summoned, who shall be sworn to enquire and a true verdict render, whether such person is of sound mind or not, whereupon the matter shall be tried; and if the jury shall return a verdict that such person is not of sound

the same shall be recorded, and the Chief Justice shall thereupon appoint a guardian of the person and estate of such idiot, lunatic or person non compos mentis as the case may be, in like manner as provided for minors under fourteen years of age.

Sec. 36. Be it further enacted, That guardians of idiots, lunatics, and persons non compos mentis, shall continue in office, unless sooner discharged according to law, until their ward shall be restored to sound mind, or shall die; and all the provisions of this act respecting guardians, for minors under fourteen years of age, shall apply also to guardians of idiots, lunatics and persons non compos mentis.

Sec. 37. Be it further enacted, That all papers and records in the several Probate Courts of this State, relating to guardians and the estates of minors, shall be transferred to the County

Court of said counties; and all the proceedings in said Probate Courts, in relation to guardians and the estates of minors, shall, from this time, be carried on and completed by said County Court, under the provisions of this act.

Sec. 38. Be it further enacted, That any guardian may resign his trust in like manner, and with like effect as in the case of an executor or administrator.

Sec. 39. Be it further enacted, That appeals may be taken from any decision, order, judgment or decree of the County Court, in relation to the estates of minors, idiots, lunatics, and persons non compos mentis, or in relation to their guardians in the same manner, and under the same rules as provided for appeals from said Court in matters relating to the estates of decedents, and any settlement of the account of any guardian may be revised and corrected in the District Court of the county at any time within two years, after such guardian has ceased, upon proof that there was any fraud or mistake in such settlement: Provided, That such guardian, or his legal representatives shall be first cited as in other suits.

Sec. 40. Be it further enacted, That all suits and actions upon the bonds of guardians shall be commenced and sued within four years next after the death, removal, resignation or discharge of such guardian, and not thereafter; Provided, That infants, married women, and persons of unsound mind shall have at least two years within which to bring such suits after the removal of their respective disabilities.

Sec. 41. Be it further enacted, That lawful father of any minor under the age of twenty-one years, may, by last will appoint a guardian of the person or of the estate, or of both the person and estate of such minor; but no guardian so appointed shall interfere with the estate of such minor, until he shall have qualified and obtained letters of guardianship as herein required.

Sec. 42. Be it further enacted, That in all proceedings in the County Court arising under the provisions of this act, the depositions of witnesses may be taken and read in evidence under the same rules and regulations as in the District Courts, and all laws in relation to witnesses and evidence which govern the District Court, shall apply to all proceedings in the County Courts, under the provisions of this act, so far as the same are applicable.

Sec. 43. Be it further enacted, That in all cases under the



provisions of this act, when it is necessary to cite any person who is out of the limits of this State, such person may be cited by publication in like manner as in the District Court.

Sec. 44. Be it further enacted, That when a minor shall have no parents living, and no estate, the Chief Justice shall have power, without the appointment of a guardian, to bind out such minor to some suitable person who will undertake the support and education of such minor; if a male, until he shall arrive at the age of twenty-one years; and if a female, until she shall marry, or arrive at the age of twenty-one years, whichever shall first happen; and when any such minor shall have property, but not sufficient for his support and education, the Chief Justice may authorize the guardian of such minor to bind out such minor, under the like rules and regulations.

Sec. 45. Be it further enacted, That this act shall take effect and be in force from and after the first Monday in August, 1848.

Approved, March 20, 1848.

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## CHAPTER 160.

### An Act Regulating Fees of Office.

Section 1. Be it enacted by the Legislature of the State of Texas, That it shall be lawful for the District Attorneys, the Attorney General, the Clerk of the Supreme Court, the Clerks of the District Courts, the Clerks of the County Courts, the Chief Justices of the County Courts, the Sheriffs, the Coroners, the Justices of the Peace, the Constables, the Notaries Public, the County Surveyors, and the Deputy Surveyors, respectively, to demand and receive the several fees hereinafter mentioned, for services rendered by them respectively in their several offices, and no more:

### TO DISTRICT ATTORNEYS.

Sec. 2. For every conviction in cases of felony, twenty dollars.

For every conviction under the laws against gaming, fifteen dollars.

For every conviction for any other offence against the laws of this State, ten dollars; which fees shall be taxed in the bill of costs against the defendant; but in no case shall be paid by the State.

For all money collected by District Attorneys in suits prosecuted by them in favor of the State, they shall be allowed, on all sums not exceeding five thousand dollars, five per cent: on all sums after the first five thousand dollars, two and one-half per cent.

#### TO THE ATTORNEY GENERAL.

Sec. 3. In each case that may be taken to the Supreme Court, the like fees and commissions as are allowed to District Attorneys; to be taxed and collected in the same manner.

#### TO THE CLERK OF THE SUPREME COURT.

Sec. 4. For entering the appearance of either party, in person or by attorney, to be charged but once, fifty cents.

For docketing each cause, to be charged but once, fifty cents.

For filing the record in each cause, fifty cents.

For entering each rule or motion, twenty-five cents.

For entering the order of the Court upon any rule or motion; or for entering any interlocutory judgment, fifty cents.

For administering an oath or affirmation, without a certificate, fifteen cents.

For administering an oath or affirmation, and giving a certificate thereof with seal, twenty-five cents.

For entering each continuance, twenty cents.

For entering every final judgment or decree, one dollar.

For each writ issued, one dollar.

For making out and transmitting the mandate and judgment of the Supreme Court to any inferior Court, one dollar and fifty cents.

For making copies of any papers or records in his office, including certificate and seal, when applied for by any person, for each hundred words, fifteen cents.

For recording the opinions of the Judges, for each hundred words, fifteen cents.

For taxing the bill of costs in each case, with copy thereof, fifty cents.

For every service not herein provided for, such fees as may be allowed by the Supreme Court, not to exceed the fees herein allowed for services requiring a like amount of labor. There shall be allowed to said Clerk, reasonable office rent, stationery, and furniture for his office, to be paid on the approval and order of the Supreme Court, out of the appropriation for the contingent expenses of said Court.

#### TO THE CLERKS OF THE DISTRICT COURT.

Sec. 5. For each writ or citation in a civil suit, fifty cents.

For copy of petition including certificate and seal, for each hundred words, fifteen cents.

For docketing each cause to be charged but once, fifteen cents.

For filing each paper in a cause, ten cents.

For entering each appearance in person or by attorney, to be charged but once, ten cents.

For entering each continuance, fifteen cents.

For entering each motion or rule not otherwise provided for, with the order, decree, or judgment of the Court thereon, fifty cents.

For swearing each witness in a cause, ten cents.

For administering each oath or affirmation, without a certificate, ten cents.

For administering each oath or affirmation, and making a certificate thereof with seal when required, twenty five cents.

For each subpoena for one witness, twenty five cents.

For each additional name inserted in such subpoena, ten cents.

For writing and taking a bond in every case where a bond is required to be taken or filed in said Court, one dollar.

For each recognizance entered of record, fifty cents.

For swearing and empanneling a Jury and receiving and recording the verdict, in each cause tried by a Jury, fifty cents.

For assessing the damages in each cause not tried by a Jury, fifty cents.

For each commission to take the deposition of one or more witnesses, fifty cents.

For copy of interrogatories, or cross interrogatories, with certificate and seal, for each hundred words, fifteen cents.

For each scire facias, (except against a Juror who may be excused,) one dollar.

For entering each interlocutory judgment, not otherwise provided for, fifty cents.

For entering each final judgment in a cause, fifty cents.

For entering each indictment, twenty five cents.

For arraigning each prisoner and entering his pleas, fifty cents.

For each commitment of a prisoner, seventy-five cents.

For taxing the bill of costs in each cause, with a copy thereof, twenty-five cents.

For each execution, fifty cents.

For each writ of possession or restitution, seventy-five cents.

For each capias or other original writ in a criminal cause, fifty cents.

For making out and transmitting the mandate and judgment of the District Court, upon an appeal from the County Court, one dollar.

For entering the return of each writ of execution, possession, or restitution, and recording the return of the officer thereon, fifty cents.

For a transcript of the record and papers in any cause when an appeal or writ of error is taken, with certificate and seal, for each hundred words, fifteen cents.

For copies of all records or papers in their offices, with certificate and seal, for each hundred words, fifteen cents.

For each certificate to any fact or facts contained in the records of his office, with certificate and seal, fifty cents.

For every service not otherwise provided for, such fee as may be allowed by the District Court, not to exceed the fees herein allowed for services requiring a like amount of labor.

There shall be allowed to said Clerks, such books, stationery and office furniture as may be necessary for his office, to be paid on the order of the County Court out of the County Treasury; and a suitable office shall also be provided by the County Court at the expense of the County.

TO THE CLERKS OF THE COUNTY COURTS.

Sec. 6. For filing each paper required to be filed in their Courts, in relation to the estates of decedents or wards, ten cents.

For making out and posting the necessary notices, upon each application for the probate of a will or for the appointment of an administrator or guardian, or in any other case where notices are required to be given in any matter relating to the estates of decedents and wards, fifty cents.

For docketing each application, complaint, petition, or proceeding in relation to the estates of decedents or wards, to be charged but once, ten cents.

For each writ or citation, fifty cents.

For each copy of an application, complaint, or petition, that is required to accompany a writ or citation with certificate and seal, fifteen cents, for each hundred words.

For making out and attesting letters testamentary or of administration, or of guardianship, fifty cents.

For taking and recording the bond and oath of an executor, administrator or guardian, one dollar.

For entering each order, judgment or decree in relation to the estates of decedents or wards, fifty cents.

For recording all papers required to be recorded by them in relation to the estates of decedents or wards, for each hundred words, fifteen cents.

For swearing each witness in Court, ten cents.

For administering each oath or affirmation, without a certificate, ten cents.

For administering each oath or affirmation, and giving a certificate thereof, with seal when necessary, twenty-five cents.

For each subpoena for one witness, twenty-five cents.

For each additional name inserted in such subpoena, ten cents.

For each commission to take the deposition of one or more witnesses, fifty cents.

For copy of interrogatories or cross-interrogatories with certificate and seal, for each hundred words, fifteen cents.

For making out a transcript of the papers and records in any cause taken from the County Court to the District Court, with

certificate and seal, and transmitting the same, for each hundred words, fifteen cents.

For each execution, fifty cents.

For entering the return of each execution, and recording the return of the officer thereon, fifty cents.

For making copies of any papers or records in their offices, with certificate and seal, for each hundred words, fifteen cents.

For taking the acknowledgement or proof of any deed, bond, power of attorney, or any other instrument of writing for registration with certificate and seal, fifty cents.

For filing and recording each deed, bond, power of attorney, or any other instrument permitted or required to be recorded by them as recorders, for each hundred words, fifteen cents, including the certificate to such recording with seal.

The recording of all bonds of county officers, shall be paid for by the officer executing the same.

For each marriage license, and receiving and recording the return made thereon, one dollar.

For each license to a ferryman, one dollar.

For every license not otherwise provided for, fifty cents.

For each certificate to any fact or facts contained in the records of his office, with seal, fifty cents.

For every service for individuals, not otherwise provided for, such fee as may be allowed by the County Court; not to exceed the fees herein allowed for services requiring a like amount of labor.

For all county business, in relation to roads, ferries, bridges, elections, and all other county matters not herein provided for, such allowance as may be made by the County Court, to be paid out of the County Treasury.

The County Court shall, also, furnish said Clerks suitable offices, and such stationery, record books, and office furniture as may be necessary, at the expense of the County.

#### TO THE CHIEF JUSTICES OF THE COUNTY COURTS.

Sec. 7. For taking the probate of a will, two dollars.

For appointing an executor, administrator, or guardian, and approving bond, one dollar.

For each appointment of appraisers, fifty cents.

For each order of sale, fifty cents.

For each approval and confirmation of a sale, one dollar.

For each decree for a partition or distribution, two dollars.

For examining and approving or setting aside the report of commissioners of partition and distribution, two dollars.

For removing an executor, administrator or guardian, one dollar.

For administering any oath or affirmation required to be administered in relation to the estates of decedents or wards, with certificates and seal, when required, twenty-five cents.

For each certificate not otherwise provided for, with seal, fifty cents.

For each order required in relation to the estates of decedents or wards, not otherwise provided for, fifty cents.

They shall also be allowed a commission of one half of one per cent. upon the actual cash receipts of each executor, administrator or guardian, upon the approval of his annual exhibits and the final settlement of his accounts; but no more than one such commission shall be charged on any amount received by any executor, administrator or guardian.

For each certificate of election, with seal, fifty cents.

For ordering all elections and doing all other business required of him by law, in relation to elections, such sum as may be allowed him by the County Court.

#### TO SHERIFFS.

Sec. 8. For serving each original writ or citation in a civil suit and copy of petition, one dollar.

For serving each *capias* or other writ not otherwise provided for, in a criminal cause, one dollar.

For summoning each witness, fifty cents.

For serving each notice for the taking of depositions, and copy of interrogatories, seventy-five cents.

For serving each *scire facias*, (except against a defaulting Juror who may be excused,) one dollar.

For levying and returning each writ of attachment or sequestration, two dollars.

For serving each citation and garnishee, one dollar.

For each cause tried in the District Court, a Jury fee shall be taxed for the Sheriff, of fifty cents.

For taking each bond or recognizance, and returning the same to the proper Court, when necessary, seventy-five cents.

For serving any writ not otherwise provided for, seventy-five cents.

For each commitment or release, one dollar.

For levying each execution, one dollar.

For returning each execution, fifty cents.

For executing and returning each writ of possession or restitution, three dollars.

For all services attending the appraisements of property for sale, under execution, or any order of sale, one dollar.

For posting the advertisements for sales, under execution, or any order of sale, one dollar.

For endorsing the forfeiture of any bond required to be endorsed by him, fifty cents.

For executing a deed to each purchaser of real estate or slaves, under an execution, or an order of sale, two dollars.

For executing a bill of sale to each purchaser of personal property, other than slaves, under an execution or an order of sale, when demanded by the purchaser, one dollar.

For making money on execution or any order of sale, when the same is made by a sale, for the first hundred dollars, three per cent.; for the second hundred dollars, two per cent.; for all sums over two hundred dollars, one and a half per cent.:—When the money is made without a sale, one half of the said rates shall be allowed.

For executing each death warrant, twenty-five dollars.

For whipping each person, by order of Court, two dollars.

For removing a prisoner, for each mile going and returning, including guards and all other expenses, twenty-five cents.

For attending a prisoner on habeas corpus, three dollars for each day.

For taking care of property levied on by a writ of execution, requestration, or attachment, all reasonable expenses, to be taxed and allowed by the Court to which such writ is returnable.

For summoning Jurors in the District Court, serving all election notices, notices upon overseers of roads, attending the District and County Courts, and doing all other public business not otherwise provided for, such sum as may be allowed by the County Court, not to exceed fifty dollars per annum, to be paid out of the County Treasury.



TO CORONERS.

Sec. 9. For summoning a jury, and all other business connected with an inquest upon a dead body, including certifying and returning the same to the proper Court, five dollars; to be paid out of the County Treasury: And a Justice of the Peace when performing such service shall receive a like fee, to be paid in like manner.

In all cases where a Coroner shall perform any of the duties of a Sheriff, he shall be entitled to the same fees as are allowed to Sheriffs.

TO JUSTICES OF THE PEACE.

Sec. 10. For each citation or writ in civil suits, fifty cents.

For each warrant in criminal cases, fifty cents.

For taking each re-cognizance in a criminal case, fifty cents.

For taking each bond, not otherwise provided for, fifty cents.

For each subpoena for one witness, twenty-five cents.

For every additional name inserted in a subpoena, ten cents.

For docketing each cause, ten cents.

For each continuance, ten cents.

For swearing each witness in Court, ten cents.

For administering an oath or affirmation, without a certificate, ten cents.

For administering an oath or affirmation, with a certificate thereof, twenty-five cents.

For administering the oath, taking bond, and issuing a writ of attachment or sequestration, one dollar.

For causing a jury to be summoned, swearing them, and receiving and recording their verdict in each cause, tried by a jury before them, fifty cents.

For each interlocutory judgment or order in a cause, twenty-five cents.

For each final judgment, fifty cents.

For each application to set aside a judgment by default, or of nonsuit, or for new trial, with the final order or judgment of the Justice thereon, fifty cents.

For taking the acknowledgment for a stay in each cause, fifty cents.

For taking each appeal bond, twenty-five cents.

For each commission to take deposition of one or more witnesses, fifty cents.

For copy of interrogatories or cross-interrogatories, for each hundred words, fifteen cents.

For making out and certifying a transcript of the entries on his docket, and filing the same with the original papers of the cause in the District Court, in each case of appeal or certiorari, one dollar.

For each execution, fifty cents.

For each writ of possession or restitution, seventy-five cents.

For receiving and recording the return on each execution, writ of possession or restitution, thirty cents.

For each search warrant, thirty cents.

For each commitment, fifty cents.

For taxing costs and copy thereof in each cause, fifteen cents.

For every certificate not otherwise provided for, twenty-five cents.

For making copies of any papers or records in his office, including certificate, for any person applying for the same, for each hundred words, fifteen cents.

For taking down the testimony of witnesses, swearing them, taking the voluntary statements of persons accused, certifying and returning the same to the proper Court, in examinations for offences, for each hundred words, fifteen cents.

#### TO CONSTABLES.

Sec. 11. For serving each writ or citation in a civil suit, fifty cents.

For serving each warrant in a criminal case, fifty cents.

For serving each notice for the taking of depositions, and copy of interrogatories, fifty cents.

For executing a search warrant, fifty cents.

For levying and returning each writ of attachment or sequestration, one dollar.

For summoning each witness, twenty-five cents.

For committing a person to jail, seventy-five cents.

For taking each bond, fifty cents.

For levying each execution, fifty cents.

For executing each writ of possession or restitution, one dollar.

For returning each execution, writ of possession, or restitution, twenty-five cents.

For summoning a jury in a Justice's Court, one dollar.

For summoning a jury to hold an inquest before a Coroner, to be paid by the County, two dollars.

For advertising sale under execution, or any order of sale, fifty cents.

For each appraisalment of property for sale under execution, or an order of sale, fifty cents.

For making title to purchaser of real estate under execution or order of sale, one dollar.

For making title to purchaser of personal property under execution or order of sale, when demanded by the purchaser, fifty cents.

For making money under execution or order of sale, when a sale is made, four per centum on the amount.

When the money is made without a sale, to two per cent. on the amount.

For conveying a prisoner to jail, including guard and all other expenses, twenty-five cents a mile, in going and returning.

For each day's attendance on the District Court, when summoned by the Sheriff, one dollar and fifty cents, to be paid out of the County Treasury.

For taking care of property levied on by a writ of execution, sequestration, or attachment, all reasonable expenses; to be taxed and allowed by the Court to which such writ is returnable.

For all services done by Sheriffs in business connected with Justice's Courts, they shall only receive the same fees as are allowed to Constables.

## NOTARIES PUBLIC.

Sec. 12. For protesting a bill or note for non-acceptance or non-payment, registering and seal, two dollars.

For protest in all other cases, twenty cents for each hundred words, and fifty cents for the certificate and seal.

For taking the acknowledgment or proof of any deed or any other instrument of writing for registration, with certificate and seal, fifty cents.

For administering an oath or affirmation, with certificate and seal, fifty cents.

For taking the acknowledgment of a married woman, to a deed or any other instrument of writing, authorized to be executed by her, with certificate and seal, one dollar and fifty cents.

For all certificates, not otherwise provided for, with seal, fifty cents.

For all notarial acts not otherwise provided for, fifty cents.

For copies of all records and memorandums in their offices, for each hundred words, with certificate and seal, twenty cents.

### TO COUNTY OR DISTRICT SURVEYORS.

Sec. 13. For inspection and recording of the field notes and plat of a survey, for any tract of land over one-third of a league, three dollars; for one-third of a league, two dollars; for any quantity of land less than one-third of a league, one dollar.

For each examination of papers and records in his office, at the request of any person wishing to examine them, twenty-five cents.

For receiving and filing each application for a location, fifty cents.

For copies of all field notes and plats, or any other papers or records in his office, for each hundred words, twenty cents, including certificate.

For surveying any tract of land, for each English lienal mile actually run, including all expenses of making the survey and returning the plat and field notes of survey, three dollars a mile.

Sec. 14. That the several officers and persons authorized to perform any of the services named in this section, shall be entitled to the fees herein allowed for such services, viz:

For taking the acknowledgment or proof of any deed, or any other instrument of writing for registration, with certificate and seal, fifty cents.

For taking the acknowledgment of a married woman to a deed or any other instrument of writing authorized to be executed by her, with certificate and seal, one dollar and fifty cents.

For taking the deposition of a witness, in answer to interrogatories or cross-interrogatories, under a commission, for each hundred words, twenty-five cents.

For swearing the witness to such answers, making certificates thereof with seal, and all other business connected with taking such depositions, fifty cents.

Sec. 15. That the fees herein before mentioned, pertaining

to suits or actions in Court, shall be taxed and allowed in the bill of costs against the party cast in each suit or action, wherein any such services shall be rendered; but not more than one copy of any matter shall be allowed in the bill of costs, and if any party or his attorney shall take out copies of his own pleadings, or of papers filed by him in any cause, no charge for such copies shall be allowed in the bill of costs.

Sec. 16. That no Clerk of the Court or Justice of the Peace, shall be allowed to charge any practising attorney of this State any fee for the examination of any papers or records in his office.

Sec. 17. That every Clerk of a Court, Sheriff, Justice of the Peace, and Constable in this State shall keep a fee book, and shall enter therein all fees charged for services rendered; which book shall, at all times, be subject to the inspection of any person wishing to see the account of fees therein charged against him.

Sec. 18. That none of the fees herein before mentioned, shall be payable by any person whatsoever, until there be produced, or ready to be produced unto the person owing or chargeable with the same, a bill or account in writing, containing the particulars of such fees, signed by the Clerk or officer to whom such fee shall be due, or by whom the same is chargeable.

Sec. 19. That in all cases where any person shall be presented or indicted by the Grand Jury, and shall be discharged from such presentment or indictment, neither the Clerks nor Sheriffs shall charge fees for the same: but if the party or parties so presented or indicted, shall be convicted, the Clerk or Sheriff shall charge him, her, or them, with all fees accruing thereon.

Sec. 20. That if any of the officers herein named, shall demand and receive any other or higher fees than are prescribed in this act, for any of the services herein mentioned, he shall be liable to the party aggrieved, for fourfold the fees so unlawfully demanded and received, to be recovered in any Court of competent jurisdiction, and shall also be liable to indictment by the Grand Jury, and on conviction may be fined in any sum not exceeding one hundred dollars for each and every case; and may also be removed from office at the discretion of the jury trying the same.

Sec. 21. That it shall be lawful for any Justice of the Peace or Clerk of the Supreme or District Court within this State, when any suits are determined in their respective Courts, and

the fees are not paid by the party from whom they are due, to make out executions for the same, directed to any lawful officer of the County where the party resides; and it shall be lawful for the Clerks of the County Courts to make out executions in like manner for the fees that may become due the officers of said Courts, directed to any lawful officer of the proper County, and the officers to whom any of such executions shall be directed, shall levy and proceed with the same as in other cases: Provided, That a bill of the costs shall in all cases accompany such executions.

Sec. 22. That in all cases where a citation or other process is required to be served by publication in a newspaper, the officer whose duty it may be to make such service shall be furnished with the printer's fee for such publication, before he shall be required to have such service made.

Sec. 23. That it shall be lawful for the Clerk of any Court or Justice of the Peace, to require security for costs before issuing any process in any suit about to be commenced; unless the party applying for such process, his agent or attorney shall make oath that the party so applying is unable to give such security.

Sec. 24. That this act shall take effect and be in force on and after the first Monday in August, 1848; and on and after that day, "an act establishing fees of office," approved 18th January, 1842, and all other laws respecting fees, for any service herein named, shall be, and the same are hereby repealed.

Approved, March 20, 1848.

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## CHAPTER 161.

An Act to provide for the enumeration of the inhabitants of the State of Texas, for the year 1848.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Assessor of direct taxes of each county in this State, shall at the time he assesses the taxes in the year eighteen hundred and forty eight, take an enumeration of the inhabitants of the State as follows, to wit; in the first column,

the number of qualified electors; in the second column, all the white males over the age of eighteen years and under forty-five years; in the third column, all the white males under the age of eighteen years; in the fourth column all the white males over the age of forty five years; in the fifth column all the white females; in the sixth column, all the slaves; in the seventh column all free persons of color; and in the eighth column all the free white population.

Sec. 2. Be it further enacted, That the Assessors shall make out duplicate returns, one of which shall, on or before the second Monday of November, be filed by them in their respective County Clerk's office, and one transmitted by mail or otherwise to the Seat of Government, directed to the Secretary of State.

Sec. 3. Be it further enacted, That the several Assessors shall each receive three cents for each white inhabitant residing in the country, and two cents for each white inhabitant in a town or city, and one cent for each slave or free person of color, enumerated by them.

Sec. 4. Be it further enacted, That the said Assessors shall each take an oath, before some competent authority, to promptly and faithfully discharge the duties required of them in this act to the best of their ability.

Sec. 5. Be it further enacted, That the Assessors shall severally give bond with approved security, payable to the Chief Justice of their respective counties, and their successors in office, in the sum of five hundred dollars, conditioned for the faithful discharge of the duties required of them by this act.

Approved, March 20, 1848.

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## CHAPTER 162.

An Act to apportion Senators and Representatives of the Legislature among the several counties of this State according to the requirements of the Constitution.

Section 1. Be it enacted by the Legislature of the State of Texas, That the State shall be divided into twenty-two Sen-

atorial Districts, which shall severally be entitled to one Senator, and be formed as follows, to wit:

- No. 1. Bowie, Cass, and Titus, 1177 electors.
- No. 2. Red River and Lamar, 1177 electors.
- No. 3. Fannin, Hopkins and Hunt, 1114 electors.
- No. 4. Grayson, Denton, Dallas, Collin, Henderson, Kaufman, and Van Zandt, 1256 electors.
- No. 5. Rusk and Panola, 1012 electors.
- No. 6. Smith, Harrison and Upshur, 1026 electors.
- No. 7. Nacogdoches and Shelby, 1193 electors.
- No. 8. San Augustine, Sabine, Newton, and Jasper, 1140 electors.
- No. 9. Liberty, Jefferson, Polk, Tyler, and Angelina, 1159 electors.
- No. 10. Cherokee, Anderson and Houston, 1244 electors.
- No. 11. Galveston and Brazoria, 1091 electors.
- No. 12. Harris, 1043 electors.
- No. 13. Grimes, Walker and Montgomery, 1211 electors.
- No. 14. Washington, Burleson, Milam, and Williamson, 947 electors.
- No. 15. Limestone, Navarro, Leon, Robertson, and Brazos, electors.
- No. 16. Travis, Hays, Bastrop, Fayette, and Caldwell, 1102 electors.
- No. 17. Austin, Fort Bend, Colorado, La Vaca and Wharton, 1124 electors.
- No. 18. Matagorda, Calhoun, Jackson, Victoria, De Witt and Gonzales, 1114 electors.
- No. 19. Nueces, San Patricio, Refugio and Goliad, electors.
- No. 20. Bexar, Guadalupe and Comal, 954 electors.
- No. 21. Starr, Webb and Cameron, electors.
- No. 22. All the counties east, or attached to Senatorial Districts east of Trinity River. The Chief Justices in all the counties in said district shall make return to the Chief Justice of Rusk county, whose duty it shall be to compare the votes so returned, and give his certificate of election to the person receiving the highest number of votes.

Sec. 2. That the Chief Justice of Cass county shall receive the returns, and give the certificate of election to the Senator elect of the first Senatorial District.



The Chief Justice of Red River county for the second District.

The Chief Justice of Fannin county for the third District.

The Chief Justice of Collin county for the fourth District.

The Chief Justice of Harrison county for the fifth District.

The Chief Justice of Rusk county for the sixth District.

The Chief Justice of Nacogdoches county for the seventh District.

The Chief Justice of San Augustine county for the eighth District.

The Chief Justice of Liberty county for the Ninth District.

The Chief Justice of Cherokee county for the tenth District.

The Chief Justice of Galveston county for the eleventh District.

The Chief Justice of Harris county for the twelfth District.

The Chief Justice of Grimes county for the thirteenth District.

The Chief Justice of Washington county for the fourteenth District.

The Chief Justice of Limestone county for the fifteenth District.

The Chief Justice of Bastrop county for the sixteenth District.

The Chief Justice of Austin county for the seventeenth District.

The Chief Justice of Victoria county for the eighteenth District.

The Chief Justice of Nueces county for the nineteenth District.

The Chief Justice of Bexar county for the twentieth District.

The Chief Justice of Cameron county for the twenty first District.

The Chief Justice of Rusk county for the twenty second District.

Sec. 3. That the State shall be divided into Representative Districts, and that the Counties and Representative Districts shall elect members of the House of Representatives, as follows, to wit:

Red River 3030, and elect one Representative.

Red River 3030, and Bowie 1121, and elect one Representative.

Lamar 3639, and elect one Representative.  
Fannin 2931, and elect one Representative.  
Lamar and Fannin, one Representative.  
Grayson 1156, Collin 877, and elect one Representative.  
Dallas 1820, Denton 620, and elect one Representative.  
Hopkins 1757, Hunt 977, and elect one Representative.  
Titus 2157, and elect one Representative.  
Cass 2005, and elect one Representative.  
Harrison 3384, and elect one Representative.  
Harrison 3384, and Upshur 1023, and elect one Representative.  
Rusk 3181, and elect one Representative.  
Rusk 3181, and Panola 1458, and elect one Representative.  
Henderson 1892, and Smith 882, and elect one Representative.  
Cherokee 2475, and elect one Representative.  
Nacogdoches 2917, and elect one Representative.  
Houston 1397, and Anderson 1498, and elect one Representative.  
Nacogdoches, Houston, Anderson, Angelina 697, Cherokee 2475,  
and elect one Representative.  
San Augustine 2176, and elect one Representative.  
Shelby 2355, and elect one Representative.  
Sabine 1251, Newton 755, and elect one Representative.  
Jasper 797, Tyler 891, Jefferson 1000, and elect one Representa-  
tive.  
Liberty 1397, Polk 1068, and elect one Representative.  
Galveston 3950, and elect two Representatives.  
Harris 6557, and elect three Representatives.  
Brazoria 1623, Fort Bend 852 and elect one Representative.  
Montgomery 1037, Grimes 1339, and elect one Representative.  
Walker 1881, and elect one Representative.  
Leon 705, Robertson 588, Brazos 355, and elect one Representa-  
tive.  
Limestone 1343, Navarro 1272, and elect one Representative.  
Matagorda 755, Calhoun 366, Jackson 440, Wharton 413, and  
elect one Representative.  
Colorado 1074, Austin 1406, and elect one Representative.  
Fayette 2204, and elect one Representative.  
Washington 2205, and elect one Representative.

Burleson 866, Bastrop 1273, and elect one Representative.  
Milam 943, Williamson , and elect one Representative.  
Travis 2140, Hays, , Caldwell , and elect one Representative.

Victoria 1044, De Witt 791, La Vaca 763, and elect one Representative.

Gonzales, 1146, Guadalupe 697, Comal 917, and elect one Representative.

Bexar 4566, and elect two Representatives.

Nueces, Starr, Webb and Cameron , and elect one Representative.

Nueces, Starr, Webb, Cameron, San Patricio, Refugio and Goliad, and elect one Representative.

Starr, Webb and Cameron , and elect one Representative.

Sec. 3. That in the several Representative Districts, composed of more counties than one, the Chief Justices of the following named counties shall be the returning officers of the respective districts in which they reside, and shall give certificate of election to the person or persons elected; and in all elections contemplated by this act, should there be no Chief Justice in any county designated, or there be such Chief Justice, but he be unable to give such certificate, then said duty shall be performed by any two Commissioners of the County Court of the proper county, to wit:

The Chief Justice of Red River county for the District of Red River and Bowie counties.

The Chief Justice of Lamar county; for the District of Lamar and Fannin counties.

The Chief Justice of Grayson county, for the District of Grayson and Collin counties.

The Chief Justice of Dallas county, for the District of Dallas and Denton counties.

The Chief Justice of Harrison county for the District of Harrison and Upshur counties.

The Chief Justice of Rusk county for the District of Rusk and Panola counties.

The Chief Justice of Henderson county for the District of Henderson and Smith counties.

The Chief Justice of Cherokee county for the District of Anderson, Houston, Angelina, Nacogdoches, and Cherokee counties.

The Chief Justice of Sabine county for the District of Sabine and Newton counties.

The Chief Justice of Tyler county for the District of Jasper, Tyler and Jefferson counties.

The Chief Justice of Liberty county for the District of Liberty and Polk counties.

The Chief Justice of Brazoria county, for the District of Brazoria and Fort Bend counties.

The Chief Justice of Grimes county, for the District of Grimes and Montgomery counties.

The Chief Justice of Leon county for the District of Leon, Robertson, and Brazos counties.

The Chief Justice of Limestone county for the District of Limestone and Navarro counties.

The Chief Justice of Jackson county for the District of Jackson, Wharton, Matagorda and Calhoun counties.

The Chief Justice of Austin county, for the District of Austin and Colorado counties.

The Chief Justice of Bastrop county, for the District of Bastrop and Burleson counties.

The Chief Justice of Travis county for the District of Travis, Hays and Caldwell counties.

The Chief Justice of Victoria county for the District of Victoria, De Witt and La Vaca counties.

The Chief Justice of Gonzales county, for the District of Gonzales, Guadalupe, and Comal counties.

The Chief Justice of Nueces county, for the District of Nueces, San Patricio, Refugio and Goliad counties.

The Chief Justice of Nueces county for the District composed of Nueces, Starr, Webb and Cameron counties.

The Chief Justice of Cameron county for the District of Starr, Webb and Cameron counties.

Sec. 4. That all laws and parts of laws conflicting with the provisions hereof be, and they are hereby repealed: and that this act shall have effect from its passage.

Approved, March , 1848.



## STATE OF TEXAS.

I, the undersigned, Secretary of State of the State of Texas, certify that the Second Legislature of said State commenced its session at the City of Austin, on Monday the thirteenth day of December, in the year one thousand eight hundred and forty-seven, and adjourned on the twentieth day of March, in the year one thousand eight hundred and forty-eight.

And I further certify, that the acts and joint resolutions contained in this Part and Volume, are true copies of the original rolls deposited in the Department of State, with which they have been carefully compared.

[L. s.]      Given under my hand and official seal, at the city of Austin, the twenty-second day of April, one thousand eight hundred and forty-eight, and of the independence of Texas the thirteenth year.

W. D. MILLER.

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**SPECIAL LAWS**

**PASSED BY**

**THE SECOND LEGISLATURE**

**OF**

**THE STATE OF TEXAS**

**VOLUME II.**

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**PUBLISHED BY AUTHORITY.**

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**HOUSTON.**  
**1848**

•• For more convenient reference, the laws contained herein are severally designated by chapters and numbers in regular series. The laws of the first Legislature are considered as being embraced in vol I, and those of the second in volume II.

•• The laws of the present or second volume are divided into two parts—Part 1, containing those denominated “laws of a general nature;” and Part II, those “for private relief” and “incorporating towns, cities, institutions of learning, and private associations of every nature,” in conformity to the provisions of Chapter 71, Section 2, (Part I.)

•• Those laws signed by the Governor, are designated by the word Approved—and those not signed by him, are said to be Passed.



VOLUME II—PART II.

## SPECIAL LAWS.

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### CHAPTER 163.

An Act To grant a ferry privilege to Nancy Hutchinson.

Section 1. Be it enacted by the Legislature of the State of Texas, That Nancy Hutchinson, of the County of Jefferson, is hereby granted the privilege of keeping a ferry on river Neches, at Beaumont, upon her giving bond as required by law.

Sec. 2. Be it further enacted, That this act be in force from and after its passage.

Approved, January 14, 1848.

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### CHAPTER 164.

An Act for the relief of Martin Walker.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby required to issue a patent to Martin Walker, upon a certificate for one league of land issued to said Walker by the Board of Land Commissioners for Bastrop County, under the provisions of "an act making provisions for persons who have been permanently disabled in the service of Texas," approved December 18th, 1837.

Sec. 2. Be it further enacted, That this act take effect from and after its passage.

Approved, January 14, 1848.

## CHAPTER 165.

Joint Resolution for the relief of John S. McNairy, of Nashville, Tennessee.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Comptroller of Public Accounts, on receiving proper evidence of the loss of two several certificates of land scrip, number twelve and sixteen, issued by the government of Texas to Thomas Toby, for six hundred and forty acres each, and transferred to John S. McNairy, of Nashville, Tennessee, shall issue duplicates of the same to the said McNairy; which certificates, when issued, may be located on any of the unappropriated public domain of Texas.

Sec. 2. Be it further resolved, That this resolution take effect from and after its passage.

Approved, January 18, 1848.

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CHAPTER 166.

An Act to authorize the Treasurer and Comptroller to pay over and deliver to Andrew Northington, assignee of the heirs of Caleb Kemp, the money and papers deposited with them by William J. Maynard, administrator of the estate of said Caleb Kemp.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Treasurer be and he is hereby authorized and required, to pay to Andrew Northington, the sum of twelve hundred and sixty three dollars and thirty six cents—it being the amount deposited in the Treasury by William J. Maynard, administrator of Caleb Kemp, deceased; and that he take the receipt of said Northington therefor.

Sec. 2. Be it further enacted, That the Comptroller be, and he is hereby authorized and required, to deliver to Andrew Northington the papers and documents relating to the estate of Caleb Kemp, deposited with him by William J. Maynard, administrator of said estate: Provided that the said Andrew Nor-

thington shall file in the office of the Comptroller, notarial copies of the assignment, from the heirs of the said Kemp.

Sec. 3. Be it further enacted, That this act shall take effect and be in force from and after its passage.

Approved, January 22, 1848.

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CHAPTER 167.

An Act to establish Public Schools in the County of Galveston.

Section 1. Be it enacted by the Legislature of the State of Texas, That the County Court of the County of Galveston, shall, at the time they levy a county tax, add thereto a tax for the support of Public Schools hereby established in said county, on all real and personal property liable to taxation for State and county purposes in said county, and it shall be assessed and collected by the Assessor and Collector of State and County taxes at the same time and in the same manner that the county taxes are; provided, that said tax shall not exceed in any one year, the one fourth of one per centum on the value of the property taxed.

Sec. 2. Be it further enacted, That each Ward in the City of Galveston, shall constitute a School District, and shall be entitled to two School Trustees; and all that part of Galveston Island not embraced within the corporate limits of the City of Galveston, shall constitute a school district, and shall be entitled to two trustees; and all that part of Galveston county lying North and West of Galveston Bay, shall constitute a school district, and be entitled to one trustee; and all that part of Galveston county lying East and North of Galveston Bay, shall constitute a school district, and shall be entitled to one trustee.

Sec. 3. Be it further enacted, That all the qualified electors for county officers for the county of Galveston, shall be entitled to a vote for school trustees in the respective wards or precincts where they reside; and the board of trustees shall be elected for the term of two years, excepting as hereinafter provided, to wit: the first board of school trustees elected in pur-

suance of this act, at their first meeting and organization, shall cause the trustees from each ward or precinct having two trustees, to determine by lot the time they shall serve, so that the first class, or one from each ward or precinct shall go out of office at the termination of the first year; and the second class at the termination of the second year; and the Chief Justice of Galveston county shall order all elections for school trustees, and to fill vacancies to take place on the first Monday in the month of March of each year, excepting the first election held under this act, which shall be ordered to take place within twenty days after a certified copy of this act is in the hands of said Chief Justice; and all the trustees elected at the said first election, shall continue in office until their successors are duly elected at the annual election in the year eighteen hundred forty-nine; and said elections for school trustees shall be held at such places in each ward or precinct herein named, as shall be designated by the Chief Justice in ordering the elections, and shall be governed by the laws of the State regulating general elections so far as the same are applicable hereto.

Sec. 4. Be it further enacted, That the Chief Justice of Galveston County, shall be ex-officio President of the Board of School Trustees, and shall preside at all of the meetings of the board when present: but in case of his absence, refusal or inability to preside, the board shall elect from their own number, a President pro tempore, to preside and to perform all other duties incumbent on the President of the Board of school trustees; and in case of any other vacancy in the board, by resignation or otherwise, the board shall fill any such vacancy, until the next annual election for school trustees from the qualified electors in the ward or precinct where the vacancy occurs.

Sec. 5. Be it further enacted, That the board of school trustees shall have the supervision and control of the public schools, and they shall make such rules and by-laws for their own government, and that of the schools, as they may deem best, and alter and amend the same at their pleasure; and it shall be the duty of the board of school trustees, to report annually to the County Court, at least three days before the time of levying the tax, provided for in the first section of this act, the condition of the public schools; the number of pupils admitted and instructed; the average number that have attended the schools; the number of teachers employed; the various

branches of learning taught in the schools the preceding year; also, the amount of revenue received, and from what source; the amount expended and in what manner; and they shall, also, submit an estimate of the cost of conducting the schools for the ensuing year, on the most economical plan; and it shall also be the duty of the board of school trustees to keep a record of their proceedings; and such record shall be open to the inspection of any school tax payer in the county of Galveston at all times, and any five members of said board of school trustees shall constitute a quorum, and shall have full power to transact all business appertaining to said board.

Sec. 6. Be it further enacted, That the Trustees of the public schools shall establish in each ward or precinct at least one primary school, provided, that there can be assembled conveniently in said ward or precinct a school of twenty-five pupils or upwards, and that a suitable building can be procured in the ward or precinct, for their accommodation; and further provided, that in case either of the precincts lying North and West of Galveston Bay, and East and North of Galveston Bay, as specified in section second of this act, shall fail or refuse to assemble the number of pupils herein required to constitute a school, then said precinct or precincts shall be exempt from taxation under the provisions of this act.

Sec. 7. Be it further enacted, That every minor or child over five years of age, and under sixteen years of age residing in Galveston county, may be admitted on such terms and regulations as may be adopted by the board of school trustees, into the public schools herein provided for, and shall enjoy all the privileges and immunities of said schools.

Sec. 8. Be it further enacted, That the County Court for the county of Galveston, may, from time to time, so alter and change the school districts in said county as they may deem best, provided, that said change shall tend to equalize the population in each district, and render it more convenient for the citizens, and that no greater number of districts be made than are provided for by this act; and said County Court shall also have power to borrow money in anticipation of the school taxes for the current year, to carry on the schools until the taxes are assessed and collected; and it shall be the further duty of the County Court to notify the board of school trustees, so soon as they have levied the tax for the support of the public schools for the year, of the amount of revenue that may rea-

sonably be expected from said tax; and it shall also be the duty of the County Court to see that all funds belonging to, and appropriated for the support of the public schools, and placed in the hands of the County Treasurer of Galveston County; and it shall be the duty of said County Court to take ample security for the same.

Sec. 9. Be it further enacted, That all payments to teachers, and for incidental expenses of said schools, shall be made by a draft on the County Treasurer, signed by the President of the board of school trustees, and countersigned by one or more of the committee of accounts, which committee shall be erected as a standing committee, whose duty it shall be to examine and audit all accounts, and every draft shall be accompanied by a specification, designating what the same was drawn for.

Sec. 10. Be it further enacted, That at the same time when the first election is held for school trustees as contemplated and provided for in the third section of this act, polls shall also be held at which every qualified voter for county officers for Galveston county shall by vote, be permitted to express his assent to, or dissent from the provisions of this act; and in case a majority of the votes then given in, shall be against the same, this act shall thereafter be of no effect.

Sec. 11. Be it further enacted, That all laws, and parts of laws, that in any way conflict with the provisions of this act be, and the same are hereby repealed, and that this act take effect from and after its passage.

Passed, January 24, 1848.

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## CHAPTER 168.

Joint Resolution to provide for a settlement of the claims of E. W. Moore, Post Captain commanding the late Navy of Texas, on account of cash advances made for the use of said Navy.

Whereas, it appears upon a settlement of the accounts of E. W. Moore, Post Captain commanding the late Texas Navy, that there is a balance due said E. W. Moore, of eleven thousand

three hundred and ninety eight dollars thirty six and a half cents, from the late Republic of Texas, on account of cash advances made by him for the use of the Navy, Therefore:

Section 1. Be it resolved by the Legislature of the State of Texas, That the said accounts and the vouchers of said E. W. Moore, together with the report of the Comptroller thereon, be deposited in the Comptroller's office; and that the claim of said Moore for said sum of eleven thousand three hundred and ninety eight dollars thirty six and a half cents, shall be as valid, and shall have the same force and effect, as if the same had been audited and settled by the proper accounting officers of the late Republic of Texas.

Sec. 2. Be it further resolved, That this Joint Resolution take effect from and after its passage.

Approved, January 24, 1848.

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#### CHAPTER 169.

Joint Resolution for the relief of persons who furnished supplies on the credit of Post Captain E. W. Moore, for the use of the Navy of the late Republic of Texas, while commanded by said Post Captain E. W. Moore.

Whereas, it appears that various supplies were furnished by different individuals, for the use of the Navy of the late Republic of Texas, on the credit of Post Captain E. W. Moore, amounting to fifteen thousand two hundred and two dollars and six cents—the accounts and vouchers for which are on file among the archives of the late Auditorial Department, Therefore:

Section 1. Be it resolved by the Legislature of the State of Texas, That said accounts and vouchers, together with the report of the Comptroller in relation to the same, shall be deposited in the office of the Comptroller of Public Accounts, and when so deposited, shall be as valid, and have the same force and effect in favor of each claimant, who furnished said supplies, as if the same had been audited and settled by the proper accounting officers of the late Republic of Texas: Provided that said ac-

counts shall not exceed the sum of fifteen thousand two hundred and two dollars and six cents, as above specified: And further provided, that said claimants shall release said E. W. Moore from any liability on account of the claims above referred to.

Sec. 2. Be it further resolved, That this joint resolution take effect from and after its passage.

Approved, January 24, 1848.

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## CHAPTER 170.

### An Act to incorporate the Union Marine and Fire Insurance Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That Samuel M. Williams, C. W. Adams, A. F. James, J. S. Sydnor, A. Ball, S. W. Tichenor, Edward Hill, J. M. Jones, S. L. Jones, Wm. Hendley, Wm. M. Rice, J. H. Stevens, and T. W. House, and their present and future associates, successors and assigns, be and are hereby incorporated and created a body politic and corporate, by the name and style of the "UNION MARINE AND FIRE INSURANCE COMPANY;" and by the same name and style they and their successors shall be capable of suing and being sued, and maintaining any action to final judgment and execution, and shall be in law capable of purchasing, holding, improving, and conveying any estate, real, personal, or mixed, for the use of said Corporation: and the said Corporation shall have power to ordain, establish and put in execution, such by-laws, ordinances and regulations as shall be necessary for the government thereof: and it shall be lawful for the said Corporation, after the expiration of the charter thereof, to use the corporate name, style and capacity, for the purpose of suits for the final settlement and liquidation of the affairs and accounts of the Corporation, and for the sale and disposition of their estate, real, personal, or mixed, but not for any other purpose, or in any other manner whatsoever, nor for a period exceeding three years after the expiration of the term of incorporation: provided, neverthe-



less, that the foregoing section shall not be construed to authorise the said Corporation to purchase or hold any real estate exceeding in value ten thousand dollars.

Sec. 2. Be it further enacted, That the capital stock of said Corporation shall be one hundred and fifty thousand dollars, divided into shares of fifty dollars each; and the same shall be created and paid in such manner, and at such times, as the President and Directors of said Corporation shall require—of which requisitions the President shall give at least one month's notice in the "Civilian" and "News" of Galveston, and the "Telegraph," of Houston, or other public newspaper, and cause the same to be notified to the stockholders: and if any stockholder shall, after due notice, neglect or refuse to pay any instalment so required to be paid, he or she shall cease to be a member of said Corporation, and the share or shares, so forfeited, may be sold by the Corporation in such manner as they may think proper; but such forfeiture or forfeitures and sale of stock, shall not release the holder thereof, nor his, her or their securities on the notes contemplated to be given in section eight of this Act, from his, her or their liability, on account of said notes to any person or persons, having a just claim against the corporation created by this Act.

Sec. 3. Be it further enacted, That for the well ordering of the affairs of the said corporation, there shall be seven Directors, who shall be stockholders of the corporation. They shall be elected by the stockholders at their annual meeting, to be held on the first Monday in December, of each year, for that purpose; and the directors, at their first meeting, shall choose one of their own number as President: Provided, nevertheless, that until the first annual election, the persons named in the first Section of this Act, shall have and may exercise all the powers given to the President and Directors by this act; and in all elections for Directors, the vote shall be by ballot, and each stockholder shall have one vote for each share he may hold: but no stockholder shall vote at any election, unless the share or shares upon which he may claim to vote, shall have been standing in his or her name on the books of the said corporation, for at least three months previous to such election; in case of absence from any general meeting, any stockholder may be entitled to vote by proxy.

Sec. 4. Be it further enacted, That the Directors of said corporation, for the time being, four of whom, including the

President, shall form a quorum, shall have power to appoint such officers, clerks, agents, and other persons, as shall be necessary for conducting and executing the business of the said corporation, and to allow said persons so appointed, such compensation for their services, respectively, as they shall deem reasonable and just; and generally, to exercise all other authority and powers for the well ordering and governing the affairs and funds of said corporation.

Sec. 5. Be it further enacted, That it shall be lawful for the said corporation to employ the funds thereof in establishing and sustaining the business of Marine and Fire Insurance; to insure against loss or damages by Sea, Fire, Moneys, and other risks of loss or damages, to which vessels and merchandise are liable; vessels, merchandise, treasure and freight; to insure vessels in port, buildings, merchandise, and all other perishable property on land, against loss or damage by fire; and to charge, collect, and receive for the same such premiums of Insurance as the President and Directors of said corporation may deem just, reasonable, and commensurate with the risk; but not at a higher rate than those charged in the city of New Orleans. It shall be lawful for the said corporation to lend at a rate of interest, not exceeding ten per centum per annum, any surplus capital which they at any time possess, which may not be required for the payment of losses as ascertained to have occurred; to lend money on bottomry and respondentia security at Marine interest, reserving therefrom, a sum, at the rate of two per centum, to be appropriated to the improvement of the navigation of the different streams tributary to the Bay of Galveston and its Harbor, but it shall not be lawful for said corporation to issue any promissory notes of the character of Bank bills, or to exercise banking privileges.

Sec. 6. Be it further enacted, That the shares of said corporation shall be assignable and transferable upon the books of said company, according to such rules and regulations as the President and Directors thereof shall for that purpose ordain and establish; and in case the assignee of any share or shares of stock shall deposit his note with securities as contemplated and provided for in section eight of this Act, the same to be approved by the county court, as in said section eight is provided, then the assignor of such share or shares shall have the right to withdraw and cancel his note or notes and securities given for such share or shares of stock; otherwise the notes and

securities of said assignor to be and remain subject and liable to all the conditions and provisions contained in section ninth of this Act.

Sec. 7. Be it further enacted, That the President and Directors of said corporation shall annually, or semi-annually, divide to the stockholders thereof so much of the profits of the business of the said corporation as in their discretion they shall deem safe and proper: but no dividend of any of the profits of the said company shall be made, unless the capital paid in be and remain unimpaired: Provided, however, that the amount of two per cent. mentioned in section fifth of this Act, shall not be considered as forming a part of the same.

Sec. 8. Be it further enacted, That the office of the company incorporated by this Act, shall be located in the city of Galveston, and so soon as the President and Directors thereof shall establish by evidence to the satisfaction of the County Court of Galveston County, that ten per centum of the capital stock of said corporation has been paid by the stockholders to the Actuary or Secretary thereof, and that the balance or residue of said Capital of One Hundred and Fifty Thousand Dollars has been secured to be paid when called for, as contemplated in section second of this Act, by the notes of the holders of said capital stock, secured by not less than two good and solvent persons, who shall be citizens of and resident in either the county of Galveston or the County of Harris; and also shall establish to the satisfaction of said county court, that the Direction of said corporation has been organized in conformity with the provisions of section third of this Act, then said County Court shall give them a certificate thereof, which shall be their warrant to commence business operations, under the authority vested by this Act.

Sec. 9. Be it further enacted, That in case the corporation created by this Act, shall fail, refuse, or be unable to pay any judgment which may be recovered against the same, the person or persons interested in said judgment shall have a right of action against each stockholder thereof, and his, her or their securities on the notes required to be given by section eighth of this Act, until such judgment or judgments are satisfied and discharged.

Sec. 10. Be it further enacted, That the charter granted by this Act shall continue in full force and effect for the full term of twenty years from and after the passage of this Act.

Approved, January 26, 1848.

## CHAPTER 171.

Joint Resolution authorizing the Commissioner of the General Land Office to issue a patent in the name of Adolphus Sterne, assignee of Maria Josefa Sanchez.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and directed to issue to Adolphus Sterne, assignee of Maria Josefa Sanchez, a patent on certificate No. 335, issued by the Board of Land Commissioners for Nacogdoches County, on the 20th day of February 1838, in accordance with said certificate and field notes returned, provided, the Government dues thereon are paid.

Sec. 2. Be it further resolved, That this resolution take effect and be in force from and after its passage.

Approved, January 26, 1848.

## CHAPTER 172.

Joint Resolution authorizing the Adjutant General, to issue a bounty land warrant, to Elijah D. Holland.

Whereas Elijah D. Holland, entered the service of the Republic of Texas, as a regular soldier, for during the war with Mexico, in the year 1837, as appears from the muster-roll of Capt. Jas. Jevon and furloughs signed by said Capt. Jevon, and E. Morehouse, Adjutant General, and Col. Com. T. A.; and as it appears from the certificate of G. R. L. Billups, acting Commissary, that the said Holland was prevented from returning to his company, before the army was discharged, in consequence of an injury he, the said Holland, received, while in discharge of his duty as a soldier, the consequence of which was, that he did not obtain his honorable discharge as the law directed: Therefore,

Section 1.—Be it resolved by the Legislature of the State of Texas, That the Adjutant General be and he is hereby author-

ized and directed to issue to the said Elijah D. Holland, his bounty land warrant, for the amount of land which may be due him, from the time he entered the army until the disbanding of Capt. Jas. Jevon's company.

Sec. 2. Be it further resolved, That such land warrant shall be as good, and valid in law, as if granted upon the delivery of an honorable discharge.

Sec. 3. Be it further resolved, That this resolution take effect and be in force from and after its passage.

Approved, January 26, 1848.

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CHAPTER 173.

An Act to incorporate Protection Fire Company No. 1, City of Houston.

Section 1. Be it enacted by the Legislature of the State of Texas, That Nelson T. Davis, Abraham M. Gentry, Henry Sampson, A. J. Burke, Houston Moore, William G. Evans, J. N. O. Smith, and their associates and successors, shall be and they are hereby constituted a body politic and corporate, under the name and style of Protection Fire Company, No. 1, City of Houston, with power to sue and be sued, plead and be impleaded, to appear and prosecute to final judgment in any court or elsewhere; to have a common seal with such device as they may adopt; to elect in whatever manner they choose the officers necessary to command them; to establish by laws for the government and regulation of their affairs not inconsistent with the constitution and laws of this State, and the same to alter or amend at pleasure; and to hold real estate and personal property, and to dispose of the same: Provided, however, such real estate and personal property shall at no time exceed twenty thousand dollars in value, and that said company shall never exceed one hundred men, rank and file.

Sec. 2. Be it further enacted, That the actual members of said company shall be exempt from serving on juries, and from militia duty, except in time of insurrection, rebellion or war.

Sec. 3. Be it further enacted, That said company shall have power by their constitution and by-laws, to try all violators of their own ordinances agreed upon by a majority of the members of said company; to suspend, expel, or fine not exceeding ten dollars, those violating the Constitution and laws of said company.

Sec. 4. Be it further enacted, That this act of incorporation shall be and continue in force for and during the term of twenty years from and after its passage.

Approved, January 26, 1848.

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#### CHAPTER 174.

An Act for the relief of the heirs of Isaac Van Zandt, deceased.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Probate Judge of Harris County, or in his absence, any Notary Public of said County, is hereby authorized to take the Probate of the Will of Isaac Van Zandt, deceased, and certify and transmit the same to the Probate Court of Harrison County, and the proof of said Will thus taken shall be as valid in the Probate Court of Harrison County, as if the same had been taken in said Court.

Approved, January 27, 1848.

CHAPTER 175.

An Act to make Robert Franklin Miller, the lawful heir of Solomon Miller.

Section 1. Be it enacted by the Legislature of the State of Texas, That from and after the passage of this act, Robert Franklin Miller, of San Augustine County, shall be and is hereby made the lawful heir of Solomon Miller, of said county.

Approved, January 27, 1848.

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CHAPTER 176.

An Act for the Incorporation of the City of Laredo.

Section 1. Be it enacted by the Legislature of the State of Texas, That the citizens of the city of Laredo, in the county of Webb, are hereby declared a body politic and corporate, by the name and style of the Corporation of the City of Laredo, and by that name may sue and be sued, plead and be impleaded, in all courts, and in all actions and matters whatsoever, and by the same name may purchase, hold and dispose of any estate, real or personal, within the limits of the city, for the use and benefit of the corporation, and may have a common seal, which they may alter and change at their pleasure.

Sec. 2. Be it further enacted, That the limits of the city of Laredo shall be one mile square, and bounded in the following manner, viz:—the Rio Grande shall constitute one line, and the upper and lower lines shall be equi-distant from the public square or plaza, and running back from the river, parallel to each other, shall intersect the back line at right angles; the lines shall all be one mile in length, and forming, as near as the meanders of the river will allow, a perfect square.

Sec. 3. Be it further enacted, That there shall be elected one mayor, and six aldermen, who shall constitute the city council.

and said mayor and aldermen shall choose or elect a clerk, a marshal, and such other officers and subordinates as they may deem necessary to carry into effect the provisions of this act.

Sec. 4. Be it further enacted, That the mayor, aldermen, clerk, marshal, and other officers appointed under this act, before entering upon the duties of their respective offices shall take and subscribe an oath to perform the duties thereof to the best of their skill and ability, which oath may be taken by the mayor before any person legally authorized to administer an oath; and by each of the other officers before the mayor.

Sec. 5. Be it further enacted, That the said mayor and aldermen shall be invested with the following powers, viz:—First, They shall have authority to make and pass all by-laws and ordinances not repugnant to, or violative of the Constitution and laws of this State and those of the United States, which they may deem necessary for the good government of the city, its tranquility, safety and health. Secondly, They shall have authority to assess and collect a license tax, in all cases where the State has done the same; and also to assess and collect a tax on all property taxable by the State; but in no instance to exceed one half the amount imposed by the State. Thirdly, They shall have authority to establish ferries, build levies, wharves and landings, fix the rates, fees, and rents of the same, establish free schools, erect public buildings for the use of the city, pave and improve the streets, and sell and dispose of any property belonging to the city, for the benefit thereof. Fourthly, They shall have authority to organize a patrol or city guard, and also to call out the citizens for the defence of the place whenever they believe it is necessary to the safety thereof: Fifthly, They shall have authority to impose and collect fines for a breach or violation of the city ordinances, and the money thus obtained shall be placed, with other funds, in the Treasury of the corporation: Provided, that said city, under no circumstances, shall impose or collect a fine to exceed ten dollars for any violation of the city ordinances whatever.

Sec. 6. Be it further enacted, That it shall be the duty of the mayor to preside at the meetings of the council; but, in case of his absence, the board of aldermen shall have power to choose one of their own body to preside; and their acts shall be as valid, at such meetings, as if the mayor was present.

Sec. 7. Be it further enacted, That the mayor shall convene the board whenever required to do so by three of the aldermen; .



and any three of the aldermen, with the presiding officer, making a majority of the whole council, shall constitute a quorum for the transaction of business, and may do whatever a full board is capable of doing; with the exception of the levying of taxes, which shall in all cases require a vote of two-thirds of the entire council.

Sec. 8. Be it further enacted, That the city council shall cause to be kept a record or journal of all its proceedings, judicial and legislative; that it may determine the compensation of the mayor, clerk, marshal, and all other officers and subordinates employed by them; and that when a vacancy occurs in any of said offices the council shall have authority to fill the same.

Sec. 9. Be it further enacted, That it shall be the duty of the clerk to keep a record of all the proceedings of the council, judicial and legislative; and before entering upon the duties of his office he shall give bond, with good security, in such sum as the city council shall direct, payable to the Chief Justice of Webb county, and his successors in office.

Sec. 10. Be it further enacted, That it shall be the duty of the marshal and his deputies appointed by the council, to act as police officers, to preserve the quiet of the city, to execute the ordinances and judgments of the council, and to inform the mayor of all breaches committed against the city ordinances.

Sec. 11. Be it further enacted, The mayor shall also have authority (within the limits of the city,) to act as justice of the peace, that he shall be entitled to a commission as such from the Governor of the State, that he shall have the same jurisdiction, civil and criminal, shall perform the same duties, and be entitled to the same fees of other justices of the peace; and that he shall keep a docket of his judicial proceedings, and shall in all matters conform to, and be governed by the laws of the State establishing and regulating the Justice's Court: Provided, that under no circumstances, shall his authority extend beyond the chartered limits of the city.

Sec. 12. Be it further enacted, That the first election for mayor and aldermen shall be held as soon as practicable after the passage of this act: that it shall be the duty of the justices of the peace, or either one of them in the city of Laredo, to appoint a presiding officer, three judges and two clerks to hold said election, who shall be sworn to a faithful performance of their duties; and said presiding officer shall post up a written notice in three or more public places in the city, at least five

days before the election, of the time and place of holding the same, the polls for this purpose to be kept open from 10 o'clock, A. M. until 3 o'clock P. M., and after counting the votes in the presence of the three judges, the presiding officer shall cause a correct list thereof to be made out and signed by the judges; which list shall be sealed up and transmitted without delay to the Chief Justice, who shall thereupon give a certificate to the persons elected, who shall thereby be empowered to enter upon the duties of their office as soon as they qualify under the requirements of this act.

Sec. 13. Be it further enacted, That immediately after entering upon the duties of their office, the city council shall lay off the city into six wards, and at all subsequent elections the mayor shall be elected by the joint ballot of all the wards; and each ward shall be entitled to elect one alderman, and no more.

Sec. 14. Be it further enacted, That the council shall decide upon the best manner of conducting its elections, as well as upon the places and time of keeping open the polls; always giving ten days notice of each election by posting advertisements in each ward, and by publication in one of the newspapers printed in the city.

Sec. 15. Be it further enacted, That the regular election for mayor and aldermen shall be annually, on the second Monday of December; and in case the office of mayor, or that of an alderman should become vacant, it shall be the duty of the council to order an election to fill the vacancy; and in case of the vacancy of the entire council, it shall be the duty of the Chief Justice of the county to order an election to fill the vacancies, in accordance with the provisions of this act.

Sec. 16. Be it further enacted, That the officers elected at the first election shall hold their offices until the first day of January, 1849; nevertheless, it shall be the duty of the council to order an election for mayor and aldermen on the second Monday of December, 1848; and the officers elected on that day, as well as at all the regular annual elections, shall hold their offices for twelve months from the first day of January next succeeding the election, or until their successors are qualified.

Sec. 17. Be it further enacted, That in all elections ordered by the council, the returns thereof shall be made to the clerk, whose duty it shall be to open them, in the presence of the council; and he shall make an entry of the same in his journals, and issue certificates of election to the candidates elected.

Sec. 18. Be it further enacted, That no person shall be eligible to any office, or entitled to vote for city officers, unless he shall be a citizen of the State, twenty-one years of age, and shall have resided in the city six months.

Sec. 19. Be it further enacted, That no election shall be contested by any person unless within ten days after the holding of the same; and any person intending to contest shall cause the person having the certificate of election to be notified thereof, at least three days before the time he intends to appear and contest the election, and shall cause a statement in writing to be delivered to him by the city marshal or his deputy, stating the grounds upon which he relies to sustain the contest; and in case the candidate can not be found, then the notice and statement shall be left at his usual place of residence; and in all cases of contested elections, the city council shall have power to determine as to the legality and number of votes, or any other grounds upon which said contest may be made, and decide upon the candidate entitled to a certificate of election.

Sec. 20. Be it further enacted, That this act shall be in force and take effect from its passage, and that all laws conflicting with the provisions thereof, be, and the same are hereby repealed.

Approved, January 29, 1848.

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## CHAPTER 177.

### An Act to incorporate the town of Bonham, in the county of Fannin.

Section 1. Be it enacted by the Legislature of the State of Texas, That the citizens of the town of Bonham be, and they are hereby declared, a body corporate, by the name and title of the Incorporation of the Town of Bonham, and by that name may sue and be sued, plead and be impleaded, and may hold and dispose of real and personal estate in said town.

Sec. 2. Be it further enacted, That the limits of said corporation shall include one half mile square, so laid off that the

public square of said town shall be in the centre of said corporation.

Sec. 3. Be it further enacted, That an election shall be held in said town, on the first Monday in March, in each and every year, for a mayor, a constable, a treasurer and four aldermen: the first election to be conducted by the Chief Justice of Fannin county, and every subsequent election to be conducted by the mayor, or a majority of the aldermen, acting at the time of such election; and the persons elected shall continue in office one year, or until their successors are duly qualified.

Sec. 4. Be it further enacted, That whenever a vacancy shall occur in the office of mayor, a majority of the aldermen acting shall order and conduct an election to fill such vacancy; and the person so elected shall hold the office until the next regular election, or until his successor shall be duly qualified.

Sec. 5. Be it further enacted, That no person shall be eligible to the office of mayor or aldermen, unless a citizen of said town, and a householder or owner of real estate therein, and no person shall be eligible to the office of constable or treasurer, unless such person be a citizen of the same.

Sec. 6. Be it further enacted, That the mayor shall be president of the board of aldermen; that three of members of said board, including the mayor, shall constitute a quorum to transact business, and that said board may enact such by-laws for the government of said town, not inconsistent with the Constitution and laws of this State, as may be deemed proper, and may inflict fines for disobedience of the same, not exceeding twenty dollars.

Sec. 7. Be it further enacted, That the board of aldermen shall have and exercise control over the public square and streets in said town, and may compel all free male citizens, ministers of the Gospel excepted, over the age of twenty-one and under forty-five years, to work on the same: Provided, That such persons shall not be required to work more than ten days in any one year, and they shall be exempt from other road duty in said county; and the board may impose such fines on defaulters as they may deem necessary, in which the board shall be governed by the law of this State regulating roads.

Sec. 8. Be it further enacted, That the board of aldermen shall have power to levy a tax on all persons and property, both real and personal, in said town, subject to taxation by the laws of this State: Provided, that the tax on property shall not, in any

one year, exceed one half of one per cent., ad valorem, on such property, and no tax shall be levied unless by two-thirds of the members present, which shall be assessed and collected by the constable in the same manner as the State tax is collected; and the board also shall have power to levy and collect a tax on any race track, billiard table, or ten pin alley which may be in said town.

Sec. 9. Be it further enacted, That the board of aldermen shall have power to appoint such additional officers, with the regulation of their duties and compensation, as may be necessary, and may require of them bond with security to the mayor in such penalty as may be deemed requisite to compel the efficient discharge of such duties as may be assigned them.

Sec. 10. Be it further enacted, That all offences against the by-laws be prosecuted before the mayor, and governed by the law organizing Justices' courts; and the constable shall execute and return all writs issued by the mayor, in the same manner as is provided by law, defining the duties of constables.

Sec. 11. Be it further enacted, That in case of the death, resignation, or removal of any alderman, treasurer or constable, the mayor shall order an election, under such rules and regulations as may be prescribed by the board, to fill such vacancy.

Sec. 12. Be it further enacted, That the constable shall give bond and security as required of other constables; shall have the same power and entitled to the same fees, for similar services.

Sec. 13. Be it further enacted, That the mayor of said town, shall be entitled to such fees as may be allowed justices of the peace, for similar services; together with such other compensation as may be allowed him by two-thirds of the aldermen present, at the time of such allowance.

Sec. 14. Be it further enacted, That the aldermen shall be entitled to such compensation as may be allowed them by the board: Provided, in no case shall the same exceed two dollars per day, for each day they may be required to sit as such aldermen.

Sec. 15. Be it further enacted, That the treasurer shall keep safely all the money of said corporation; shall pay out the same upon the order of the board, and shall do such other duties as may be assigned him by the by-laws. He shall give bond with security, payable to the mayor in such sum as may be deemed proper, conditioned for the faithful performance of his duties. to

be approved by the board, and shall be allowed such compensation as may be allowed, from time to time, to county treasurers.

Sec. 16. Be it further enacted, That the mayor be, and he is hereby invested, with all the powers and jurisdiction of a justice of the peace, within the limits of said town.

Sec. 17. Be it further enacted, That the books and records of the incorporation shall, at all reasonable times, be open to the examination of any citizen of said town or property-holder therein desiring the same.

Sec. 18. Be it further enacted, That this act be in force and take effect from and after its passage.

Approved, February 2, 1848.

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#### CHAPTER 178.

An Act to remove the disability of minority from William Stean, Jun'r, so as to enable him to receive his portion of the estate of his deceased parents.

Section 1. Be it enacted by the Legislature of the State of Texas, That the disability of minority attached to William Stean, Jr., be, and the same is hereby removed, and he is fully and legally vested with the right to apply for and receive the portion of property left him by his deceased parents, and use and dispose of the same as fully and completely as though he were of full age.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, February 2, 1848.

CHAPTER 179.

An Act to incorporate and establish Guadalupe College.

Section 1. Be it enacted by the Legislature of the State of Texas, That a school of learning be, and the same is hereby established at the town of Guadalupe, Guadalupe county, to be known as the Guadalupe College.

Sec. 2. Be it further enacted, That there shall be five Trustees of said College, to take charge of and superintend its interest, and a majority of whom shall constitute a quorum to do business.

Sec. 3. Be it further enacted, That the following named persons be, and they are hereby declared to be the Trustees of said College, to wit: Hon. William E. Jones, Hon. Michael Erskine, Dr. I. E. Park, Joseph F. Johnson, and Martin R. Lewis.

Sec. 4. Be it further enacted, That the aforesaid trustees be, and they are hereby constituted a body politic and corporate in deed and in law, by the name of the President and Trustees of Guadalupe College; and by that name they and their successors may and shall have perpetual succession, and be able and capable in law, to receive, have, and enjoy to them and their successors, lands, tenements, hereditaments of any kind in fee or for life, or for years, and personal property of any kind whatsoever, and all sums of money which may be given, granted or bequeathed to them for the purpose of promoting the interest of the said college.

Sec. 5. Be it further enacted, That there shall be a stated meeting of the Board of Trustees in each year, at the time of conferring degrees; and that the President of said Board of Trustees shall have full power to call an occasional meeting of the Board whenever it shall appear to him necessary; and a majority of the Board shall have authority to call occasional meetings, whenever they shall think it necessary to do so.

Sec. 6. Be it further enacted, That the Trustees of said College may and shall have a common seal, for the business of themselves and their successors, with liberty to alter or change the same from time to time, as they shall think proper; and that by their aforesaid name, they and their successors, may and shall be able to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended in all courts of law and

equity in this State; and to grant, bargain, and sell, or assign any lands, tenements, goods, or chattles, now belonging to said College, or that may hereafter belong to the same; to construct all the necessary buildings for said institution; to establish a Preparatory Department; to organize, establish and control a separate department, and school for females, and such dependent institutions as they shall deem necessary, in furtherance of the object of this act; to have the management of the finances; the privilege of electing their own officers; of appointing all necessary committees; and to act and do all things whatsoever for the benefit of the said institution, in as ample a manner as any person or body politic or corporate may and can do by law.

Sec. 7. Be it further enacted, That the said Trustees shall have the power of prescribing the course of studies to be pursued by the students, and of framing and enacting all such ordinances and by-laws, as shall appear to them necessary for the good government of said college, and for their own proceedings: Provided always, that the same be in accordance with the Constitution of the United States and the State of Texas.

Sec. 8. Be it further enacted, That the head of said College shall be styled the President, and the instructors thereof, the Professors; and the President and Professors or a majority of them, the Faculty of Guadalupe College; which faculty shall have power of enforcing the ordinances and by-laws adopted by the Trustees for the government of the students, by rewarding or censuring them, and finally by suspending such of them as, after repeated admonitions, shall continue disobedient or refractory, until a determination of a quorum of Trustees can be had; but it shall be only in the power of a quorum of Trustees to expel any student or students of the said College.

Sec. 9. Be it further enacted, That the Trustees shall have full power, by the faculty of said College to grant or confer such degree or degrees in the arts and sciences to the students of said College, and to other persons worthy thereof, as are usually granted and conferred in other colleges, and to give certificates thereof, or diplomas, signed by them and sealed with the common seal of the trustees of the college, to authenticate and perpetuate the memory of such graduations.

Sec. 10. Be it further enacted, That whenever any vacancy shall occur in the board of Trustees, either by death, resignation, or expulsion for cause, such vacancy or vacancies shall be filled by the remaining trustees.



Sec. 11. Be it further enacted, That all necessary officers of said college shall be appointed by a majority of the Board of Trustees, viz: the faculty and minor officers; and that said officers shall always be subject to removal by the appointing power for cause.

Sec. 12. Be it further enacted, That the salaries of all officers connected with the college, shall be fixed by a majority of the Board of Trustees.

Sec. 13. Be it further enacted, That the Guadalupe College shall be purely literary and scientific; and the students of all religious denominations shall enjoy equal advantages.

Sec. 14. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, February 5, 1848.

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## CHAPTER 180.

To authorize the City of Galveston to appoint Firemen and to exempt the same from militia and jury duty.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Mayor and City Council of the City of Galveston, may, and they are hereby authorized to appoint and enrol such number of Firemen, and to appoint and commission such number of officers to command the said Firemen as they may deem sufficient to protect the property in the City of Galveston from destruction by fire.

Sec. 2. Be it further enacted, That each Fireman and officer (thus appointed by the Mayor and City Council of the City of Galveston,) while doing duty as a Fireman in said city, shall be exempt from serving on any jury, and from all Militia duty, (except during insurrection, rebellion, or invasion) provided, that there shall not be appointed more than forty Firemen for each Engine or Hook, and Ladder Truck and Apparatus, and twenty for each Hose Cart, procured and used by said City for the extinguishment of fires.

Sec. 3. Be it further enacted, That said Firemen when formed into companies shall have the right to make their own by-

laws, not inconsistent with the laws and Constitution of the State, for their better guidance and regulation, provided, the same are first approved by the said City Council.

Sec. 4. Be it further enacted, That this act take effect from and after its passage.

Passed, February 7, 1848.

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## CHAPTER 181.

### An Act for the relief of John Keiser.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue a patent to John Keiser for one third of a league of land by virtue of certificate No. 670, issued to him by the Board of Land Commissioners for the county of Brazoria, on the 12th day of July A. D. 1838, which certificate was through mistake recommended by the Board of Travelling Commissioners in the name of John Reiser;—This act to take effect and be in force from and after its passage.

Approved, February 9, 1848.

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## CHAPTER 182.

### An Act to amend the 11th section of an act to incorporate the Brazos Canal Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That the 11th section of an act to incorporate the Brazos Canal Company, passed by the sixth Congress of the late Republic of Texas, and approved January 3d, 1842, be, and the same is hereby repealed, and the following be substituted in place of said 11th section, to wit: That that the said

Brazos Canal Company shall be allowed until 1st January, 1853, to complete and render navigable said canal, from the Brazos river to San Luis bay, twenty years after which time, the State of Texas shall have the right to purchase at par, the whole of the capital stock of said company; provided, that if the State does not purchase said stock within twelve months after the expiration of the said twenty years, then this charter shall be considered as renewed, for the next ensuing twenty years, at the expiration of which second term of twenty years, the Canal shall belong to the State of Texas, and all the rights of regulating the tolls on the Canal, which belonged to the Congress of the Republic of Texas, under the act of incorporation and amendment, shall accrue and hereafter be vested in the Legislature of the State of Texas.

Approved, February 10, 1848.

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#### CHAPTER 183.

For the relief of the heirs of Jeremiah Bowlin.

Whereas, by an error of the records of the Travelling Board of Land Commissioners, the head right certificate of Jeremiah Bowlin of the County of Shelby, was miscalled James Bowlin; whereby the heirs of the said Jeremiah Bowlin, are deprived of their just rights and are without legal remedy; Therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be required to issue a patent to the heirs of the said Jeremiah Bowlin, deceased, upon said certificate, in the same manner as though no such error had been committed.

Approved, February 12, 1848.

## CHAPTER 184.

An Act to legalize the marriage of Rhessa Green Stalcup and Mary Ann Miller.

Section 1. Be it enacted by the Legislature of the State of Texas, That the rites of matrimony heretofore celebrated between Rhessa Green Stalcup and Mary Ann Miller, be, and the same are hereby declared to be as valid in law as though no legal disability had existed thereto at the time of the celebration of said marriage.  
Approved, February 21, 1848.

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## CHAPTER 185.

An Act to legitimate Maria Malicia Stalcup and render her capable of taking by descent, the estate or estates of her parents Rhessa Green Stalcup and Mary Ann Stalcup.

Section 1. Be it enacted by the Legislature of the State of Texas, That Mary Malicia Stalcup, be deemed and declared to be the legitimate child of Rhessa Green Stalcup and Mary Ann Stalcup, and she is hereby rendered capable of taking by descent the estate or estates of her parents; any disability existing at the time of her birth to the contrary notwithstanding.  
Approved, February 21, 1848.

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## CHAPTER 186.

Joint Resolution requiring the Commissioner of the General Land Office to issue a patent in the name of the heirs of William P. Nunn, deceased.

Whereas, the Board of Land Commissioners of Washington County, issued on the 19th of July, 1845, to John B. Nunn, as

administrator of William P. Nunn, deceased, a certificate for three hundred and twenty acres of land numbered 256, which the Clerk of said Board failed to record and report to the General Land office; and whereas, a certificate of the same date and number, is duly recorded and reported to the General Land Office in the name of Ralph W. Fuller; and, whereas it appears that the Clerk in recording the same by mistake, numbered the certificate of the said Nunn, in the same number of the said Fuller, for which reason a patent cannot according to law be issued upon the first named certificate: Therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That the Commissioner of the General Land Office is hereby directed to issue a patent in the name of the heirs of William P. Nunn, upon the certificate issued as above specified in the name of John B. Nunn, as administrator of William P. Nunn, deceased, and that this act take effect from and after its passage.

Approved, February 22, 1848.

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#### CHAPTER 187.

Joint Resolution making an appropriation for the payment of the pro rata pay due E. W. Moore, Post Captain Commanding late Texas Navy, under the provisions of an act of Congress of the Republic of Texas, approved 5th February, 1844.

Whereas, the pro rata pay due E. W. Moore, Post Captain Commanding the late Navy of Texas, having been suspended on the ground that he was supposed to be a defaulter to the Government, which cause no longer exists, Therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That the Comptroller is hereby required to pay E. W. Moore, Post Captain Commanding the late Navy of Texas, the amount of pro rata pay due him, under the provisions of the act of Congress of the Republic of Texas, approved, February

5th, 1844, appropriating "sixteen thousand dollars, to be paid pro rata to the officers of the Navy" and an appropriation is hereby made, sufficient to cover the same, which shall be paid out of any money in the Treasury not otherwise appropriated.

Sec. 2. Be it further resolved, That the Comptroller in ascertaining the amount of pro rata pay due E. W. Moore, Post Captain. Commanding late Texas Navy, is hereby required to be governed by the rule under which the other officers of the Navy were paid their pro rata pay, under the provisions of the act of Congress of the Republic of Texas above recited.

Sec. 3. Be it further resolved, That the sum of twelve hundred and fifty dollars, shall be paid at this time, and the balance of two thousand three hundred and twenty-five dollars and thirty-nine cents shall be paid at any time after the first of February, A. D. 1849, and that this Joint Resolution take effect from and after its passage.

Approved, February 23, 1848.

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## CHAPTER 188.

Joint Resolution on behalf of Edward A. Weyman, a resident citizen of the county of Nueces, and State of Texas.

Whereas, Edward A. Weyman, a resident citizen of the county of Nueces, and State of Texas, was, in the year one thousand eight hundred and forty-seven, engaged as a merchant in said county, in conformity with the laws of the State of Texas; and whereas, Giles Porter, acting as commandant of the post, at Brazos Santiago, did by military force, eject the said Weyman, from his own premises, and deprive him of the whole amount of his goods, wares and merchandize; and whereas the said Weyman, in order to perpetuate the testimony of the injuries done him as aforesaid, as well as to ascertain the amount of the damages sustained thereby, obtained a judgment at the Fall Term of the District Court in the county of Nueces against the said Giles Porter, after personal notice served, for the sum of fifteen thousand dollars; and whereas the said Giles

Porter, is beyond the control of the Judicial tribunals of this State, and has no known property within the same, leaving the said Weyman in consequence, without remedy, by final process, against the said Giles Porter. Therefore,

Be it resolved by the Legislature of the State of Texas, That the Governor be requested to apply to the Government of the United States, for indemnity, to the amount of the damages as ascertained by the judgment aforesaid on behalf of the said Edward A. Weyman.

Approved, February 24, 1848.

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CHAPTER 189.

Joint Resolution for the relief of William Plucker.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Commissioner of the General Land Office is hereby authorized and required to issue to William Plucker, assignee of John D. G. Varrelman, a patent for one labor of land upon certificate No. 530, first class, issued by the Board of Land Commissioners for Nacogdoches County, provided, the survey of said labor has been made according to law, and provided all government dues have been paid.

Sec. 2. Be it further resolved, That this Joint Resolution be in force and take effect from and after its passage.

Approved, February 26, 1848.

## CHAPTER 190.

An Act to authorize the opening and construction of a Turnpike Road from the City of Houston to the Brazos River.

Section 1. Be it enacted by the Legislature of the State of Texas, That William E. Crump, and his associates be, and he is hereby authorized to survey, construct and open a Turnpike road to run from the City of Houston to the Brazos River, and one mile on the West side of said river, provided, the tolls hereafter established in this act, shall in no wise prohibit said Crump and his associates from charging the same rates of ferriage, customary at other ferries on said river.

Sec. 2. Be it further enacted, That the said William E. Crump, shall have the right of way over any vacant and unappropriated public land through which said road may pass, and which may be necessary for the construction of said road, and keeping the same in good order.

Sec. 3. Be it further enacted, That the said Crump, with the consent of the owners of the soil through which said road may pass, is required to make a road not less than eighteen feet wide, and when he may deem it necessary, to cut ditches and make bridges across all shallow streams, and causeway such parts of swamp as he may deem expedient, so that the said Turnpike shall be at all times passable and in good order.

Sec. 4. Be it further enacted, That said Crump is authorized, so soon as said road is completed to collect and receive the following rates of toll, to wit: for each vehicle, not to exceed twenty-five cents per wheel; for each horse or mule and rider ten cents; and for all loose horses, mules, or cattle, five cents per head.

Sec. 5. Be it further enacted, That said Crump may erect as many Turnpike gates as he may think proper, without the corporate limits of the City of Houston, but shall only charge the same person or persons, at one of said gates, provided, they shall have the right of charging the above rates, as well for a part of the distance of said road, as for the whole distance.

Sec. 6. Be it further enacted, That if any person or persons shall travel upon said road, or drive any waggon, or loose horse or horses or cattle upon said road without paying the toll above allowed or shall injure in any manner the said Turnpike



road, a right of action shall accrue to said Crump, and a suit may be instituted therefor before any Court of competent jurisdiction.

Sec. 7. Be it further enacted, That the said Crump shall, by this act be entitled, either by him, his agent or assigns to receive the rates of toll herein allowed for the term of twenty-five years from and after the passage of this act.

Sec. 8. Be it further enacted, That should said Crump fail to complete said road as herein contemplated within five years from the passage of this act, then this act shall be null and void.

Sec. 9. Be it further enacted, That this act take effect from and after its passage.

Approved, February 26, 1848.

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## CHAPTER 191.

### An Act to Incorporate the Town of Montgomery.

Section 1. Be it enacted by the Legislature of the State of Texas, That the citizens of the town of Montgomery, in Montgomery county, be, and they are hereby, declared a body politic and corporate, under the name and style of the Corporation of the Town of Montgomery, who shall have the power of suing and being sued, pleading, and being impleaded, and to hold property real and personal within the limits of said corporation, and at their pleasure to dispose of the same.

Sec. 2. Be it further enacted, That the corporate limits of said town shall extend one half mile in every direction from the centre of the public square.

Sec. 3. Be it further enacted, That it shall be the duty of the Chief Justice of the county, to order an election to be held as early as practicable, after the passage of this act, upon giving ten days notice thereof, for the election of one Mayor and six Aldermen, a Collector or Constable, Treasurer and Secretary, who shall hold their offices for the term of one year from the time of their election. In case a vacancy occur by death, resignation or otherwise, the vacancy for the unexpired term shall be filled

by a new election, as follows: in case of vacancy in the office of mayor, then the election to be conducted by a quorum of aldermen; but in case of vacancy in the board of aldermen, collector, secretary or treasurer, then the election shall be conducted by the mayor. All persons residing within the corporation shall be entitled to a vote for the above named officers, who are eligible to vote for members of Congress.

Sec. 4. Be it further enacted, That the mayor and two-thirds of the aldermen shall constitute a board to transact business.

Sec. 5. Be it further enacted, That the collector, treasurer and secretary, shall give bond to the mayor and his successors in office, in such sum, and with such securities, as shall be approved by the mayor and board of aldermen, and that all officers elected by virtue of this act, before entering upon the duties of their office, shall take and subscribe an oath for the faithful performance of the duties of their respective offices.

Sec. 6. Be it further enacted, That it shall be the duty of the mayor to cause an election to be held, annually, at least ten days before the expiration of his term of office, for mayor, aldermen, collector, treasurer and secretary, who shall enter upon the duties of their offices respectively, upon the expiration of the term of their predecessors.

Sec. 7. Be it further enacted, That the mayor shall have jurisdiction, and exercise the powers of a Justice of the Peace over all the offences committed against the ordinances and decrees of the mayor and board of aldermen, within the limits of the corporation.

Sec. 8. Be it further enacted, That the mayor and aldermen shall have power to pass such ordinances and decrees as they shall deem necessary for establishing schools, and support of education; for the regulation of the police, and the preservation of order; to prescribe penalties; to levy taxes for the removal of nuisances, keeping streets in order, and for such other purposes, as the board may deem proper and necessary within the limits of said town: Provided, that such ordinances and decrees shall not conflict with the Constitution and Laws of this State.

Approved, February 26, 1848.

CHAPTER 192.

An Act for the relief of the widow and heirs at law of Major James L. Holmes, deceased.

Section 1. Be it enacted by the Legislature of the State of Texas, That the certificate for one league and one labor of land, issued on the fifth day of July, A. D. 1838, by the Board of Land Commissioners for the county of Washington, to Willet Holmes and J. B. Robertson, as the administrators of James L. Holmes, deceased, be, and the same is hereby declared a just and genuine claim against the government of Texas; and the Commissioner General of the Land Office is hereby authorized and required to issue a patent or patents as in other cases on said certificate to Ann Holmes, surviving widow of said deceased, for the benefit of herself and the heirs at law of said deceased.

Sec. 2. Be it further enacted, That this act take effect from and after its passage.

Approved, March 1, 1848.

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CHAPTER 193.

An Act for the relief of the heirs of Patrick Reels.

Section 1. Be it enacted by the Legislature of the State of Texas, That the certificate granted to Patrick Reels by the Board of Land Commissioners of Colorado county, for one-half league and one labor of land, shall be as good and valid as if said certificate had been recommended for the full amount of land, by the travelling Board of Land Commissioners; and the Commissioner of the General Land Office is hereby, authorized and required to issue a patent thereon to the heirs of said Reels.

Approved, March 1, 1848.

## CHAPTER 194.

An Act to authorize Sarah Ann Kelton, wife of Oliver P. Kelton, a lunatic, to make valid conveyances of her real estate and negroes.

Section 1. Be it enacted by the Legislature of the State of Texas, That Sarah Ann Kelton, wife of Oliver P. Kelton, a lunatic, be, and she is hereby authorized to sell and convey her separate property, consisting of real estate and negroes, and otherwise to transact business as a feme sole, and all acts hereafter performed by the said Sarah Ann Kelton, in reference to the management or sale of her separate property, are hereby declared to be valid, any laws or parts of laws to the contrary notwithstanding.

Approved, March 1, 1848.

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CHAPTER 195.

An Act for the relief of Jesse H. Cartwright.

Whereas, it appears that the Board of Land Commissioners for Fort Bend County, in 1838, issued to Jesse H. Cartwright, as assignee of Robert F. Roberts, a certificate for one league and one labor of land, on proper proof: And whereas, it appears that by an error of the clerk of said Board in making his record, the Board of Travelling Commissioners recommended said certificate for one-third of a league only:—Therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office, be, and he is hereby authorized and required to issue to J. H. Cartwright a patent or patents, by virtue of certificate No. 219, 2nd class, issued to said Cartwright by the Board of Land Commissioners for Fort Bend county for one league and one labor of land.

Sec. 2. Be it further enacted, That this act be in force and take effect from and after its passage.

Approved, March 2, 1848.

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CHAPTER 196.

An Act authorizing Charles Covington and his Associates, to establish a ferry across the river Yegua, and construct a causeway across the bottom lands thereof.

Section 1. Be it enacted by the Legislature of the State of Texas, That Charles Covington and such Associates, as he may choose, be, and they are hereby, authorized to establish a ferry across the river Yegua, and construct a causeway across the bottom lands of said stream: Provided, The same shall be done with the consent of the owners of the land where said ferry shall be established, and over which said causeway shall pass.

Sec. 2. Be it further enacted, That the ferry and causeway shall be completed before the expiration of two years from the passage of this act, or all the privileges herein conferred shall be forfeited.

Sec. 3. Be it further enacted, That the County Court of Burleson county shall have the power to regulate the rates of toll and ferriage, to be collected by said Charles Covington, his Associates and successors, and the privileges of this act shall enure to the above named Charles Covington, his Associates and successors, for fifteen years from the passage thereof.

Sec. 4. Be it further enacted, That after the expiration of the aforesaid time of fifteen years, it shall and may be lawful for the County Court of Burleson county, to extend the privileges herein granted to any term of years, not exceeding ten, and that this act take effect from and after its passage.

Approved, March 1, 1848.

## CHAPTER 197.

## An Act to incorporate the town of Springfield.

Section 1. Be it enacted by the Legislature of the State of Texas, That the citizens of the town of Springfield in Limestone county be, and they are hereby declared a body corporate and politic, under the name and style of the corporation of the town of Springfield, who shall have the power of suing and being sued, pleading and being impleaded, and to hold and dispose of property, both real and personal, within the limits of said corporation.

Sec. 2. Be it further enacted, That all that tract of land (containing five hundred acres,) heretofore surveyed by A. McNeill, and known as the town tract shall be the limits and boundaries of said town.

Sec. 3. Be it further enacted, That it shall be the duty of the Chief Justice of the county, to order an election to be held, as early as practicable after the passage of this act, upon giving ten days notice thereof, for the election of one mayor and six aldermen, a collector or constable, a treasurer, and secretary, who shall hold their offices for the term of one year from the time of their election. In case a vacancy occur, by death, resignation or otherwise, the vacancy for the unexpired term shall be filled by new election as follows: in case of vacancy in the office of mayor, then the election to be conducted by a quorum of the board of aldermen; but in case of vacancy in the board of aldermen, collector, treasurer, or secretary, then the election shall be conducted by the mayor. All persons residing within the corporation shall be entitled to a vote for the above named officers, who are eligible to vote for members of the Legislature.

Sec. 4. Be it further enacted, That the mayor and two-thirds of the board of aldermen shall constitute a board to transact business.

Sec. 5. Be it further enacted, That the collector, treasurer, and secretary, shall give bond in such sum, and with such securities, as shall be approved by the mayor and board of aldermen, and that all officers elected by virtue of this act, before entering upon the duties of their office, shall take and subscribe an oath, for the faithful discharge of the duties of their respective offices.

Sec. 6. Be it further enacted, That it shall be the duty of the mayor to cause an election to be held annually, at least ten days before the expiration of his term of office for all the officers mentioned in the third section of this act, who shall enter upon the duties of their offices respectively upon the expiration of the term of their predecessors.

Sec. 7. Be it further enacted, That the mayor shall have jurisdiction and exercise the powers of a justice of the peace, over all offences committed against the ordinances and decrees of the mayor and aldermen within the limits of the corporation.

Sec. 8. Be it further enacted, That the mayor and aldermen shall have power to pass such ordinances and decrees as they may think necessary, for the establishing schools and support of education, for the regulating of the police and preservation of order; to prescribe penalties; to levy taxes for the removal of nuisances; keeping the streets in order, and such other purposes as the board may deem necessary and proper, within the corporate limits of said town: Provided, such ordinances and decrees, shall not conflict with the laws and Constitution of this State.

Sec. 9. Be it further enacted, That this act shall take effect and be in force from and after its passage.

Approved, March 1, 1848.

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#### CHAPTER 198.

An Act to amend the second section of an act for the incorporation of the town of Paris, the county seat of Lamar county, approved February 3d, 1845.

Section 1. Be it enacted by the Legislature of the State of Texas, That the second section of an act for the incorporation of the town of Paris, the county seat of Lamar county, be and the same is so amended, as to read thus: That the citizens of the corporation of the town of Paris, shall have all the benefits and privileges, and in all respects be governed by the provisions of an act incorporating the town of Bonham, in the county of Fannin, approved, February 2d, 1848.

Sec. 2. Be it further enacted, That this act be in force from and after its passage.

Approved, March 2, 1848.

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#### CHAPTER 199.

##### Joint Resolution for the relief of J. W. E. Wallace.

Section 1. Be it resolved by the Legislature of the State of Texas, That the claim of Joseph W. E. Wallace, for six thousand five hundred and forty-three dollars, for goods furnished the Texas Army on the Colorado in the spring of 1836, be and the same is hereby acknowledged, as a good and valid claim against the late Republic of Texas, and to be ranked among the outstanding liabilities thereof.

Sec. 2. Be it further resolved, That the vouchers and evidence of said claim shall be deposited in the Comptroller's office, and that this resolution take effect from and after its passage.

Approved, March 8, 1848.

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#### CHAPTER 200.

##### An Act to establish the University of Eastern Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That S. W. Blound, L. V. Greer, J. D. Thomas, L. Randall, J. P. Henderson, Wm. Garrett, M. Cartwright, D. O. Warren, E. Price, Wm. H. Slaughter, C. Payne, F. G. Roberts, B. Rush Wallace, O. M. Roberts, and J. M. Rankin, be, and they are hereby incorporated and made a body politic in law and equity, under the name and style of "The President and Trustees of the University of Eastern Texas," to be located in the town and county of San Augustine, and have a common



seal, with the power of changing the same at pleasure, be capable of suing and being sued, of pleading and being impleaded, of holding property, real, personal and mixed, by deed, gift, devise or otherwise; of selling, alienating and conveying the same at pleasure, and of doing whatever else may be necessary to be done for the benefit and advantage of said Institution, that is not contrary to the laws and Constitution of this State.

Sec. 2. Be it further enacted, That this charter, and the privileges conferred by it, shall extend to said Trustees and their successors in office, as long as they may be engaged in the promotion of education and the diffusion of useful knowledge, as herein contemplated.

Sec. 3. Be it further enacted, That there shall not be more than three members of any one religious denomination in said Board at the same time, and that seven of said Board, and the President, shall constitute a quorum to transact business.

Sec. 4. Be it further enacted, That hereafter, this body corporate shall consist of fifteen Trustees, from among whom they shall choose a President and Vice President, and when vacancies therein may occur, they shall be filled by said Board.

Sec. 5. Be it further enacted, That the President, Vice President, and other officers, shall annually be elected by said Board.

Sec. 6. Be it further enacted, That, without the approval of the President or presiding officer no act shall be passed, nor resolution be adopted, except by the concurrence of two-thirds of the members present; unless two-thirds of the whole Board of Trustees shall be present at the time, in which event, the acts and resolutions of a majority of those present shall be valid.

Sec. 7. Be it further enacted, That if the President of the Board of Trustees be absent, the Vice President thereof, when he may deem it necessary, shall have power to call a special meeting of said Board, and may exercise all the powers vested in the President, and in the absence of both, should the necessity of the case demand it, two-thirds of their Board, by calling one of their number to the chair, shall have power to transact all such business as the entire Board, except in cases hereafter provided.

Sec. 8. Be it further enacted, That the Faculty of said University shall consist of a President and such number of Professors as the Board may deem necessary, all of whom shall be competent, and possess the necessary qualifications in every

particular, to take charge of such department in said University, as the board of Trustees may designate.

Sec. 9. Be it further enacted, That in electing a President of said University, or any of the Professors therein, there shall be present the President or Vice president of the Board of Trustees, and at least two-thirds of the other members thereof, and a concurrence of a majority of all the Board shall be necessary to elect a President or Professor of said University.

Sec. 10. Be it further enacted, That the Trustees of said University, whenever they may deem it necessary, may add to said Institution the department of Law and Medicine.

Sec. 11. Be it further enacted, That the Trustees and Faculty of said Institution shall have the power of granting diplomas, conferring degrees and of doing whatever else they may deem necessary for the promotion of education and for the diffusion of useful knowledge: Provided, it be not inconsistent with, nor repugnant to the Constitution and laws of this State.

Sec. 12. Be it further enacted, That the present Trustees and their successors, shall, before entering upon the duties of their offices, each take and subscribe the following oath: "I will endeavor well and truly to discharge the duties incumbent on me as a Trustee of the University of Eastern Texas, in accordance with the charter of said Institution, without partiality for any particular denomination of christians or party in politics."

Sec. 13. Be it further enacted, That said Board of Trustees shall be, and they are hereby, authorized to establish in said town a Female Seminary of Learning, to be styled "The Female Institute of San Augustine," and shall have and exercise such power and control over the same, as they may over the University of Eastern Texas.

Sec. 14. Be it further enacted, That the Board of Trustees may, for the Female Institute aforesaid, have the same power to receive property by devise, gift or otherwise, and may purchase and sell property, real, personal and mixed, in the same manner therefor as they may for the University aforesaid, and may provide a seal, confer degrees, and do and perform every act necessary for the promotion of female education, as fully as is provided herein for the University aforesaid.

Sec. 15. Be it further enacted, That said Board of Trustees shall have, and are hereby, vested with full and ample power to

make by-laws for the government of said University and Female Institute, and of the students of the same.

Sec. 16. Be it further enacted, That this act of incorporation of said University and Female Institute, shall be taken notice of by all the Courts of this State, without being specially pleaded.

Sec. 17. Be it further enacted, That the property, real, personal and mixed, now belonging to the University of San Augustine, be, and the same is hereby transferred to the Board of Trustees of the University of Eastern Texas aforesaid, and that the University of Eastern Texas be vested with, and entitled to, all the rights, privileges, and immunities whatsoever hitherto enjoyed by said University of San Augustine; and that the act incorporating the said University of San Augustine, be, and the same is hereby repealed; and that this act have effect from and after its passage.

Approved, March 8, 1848.

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CHAPTER 201.

An Act for the Relief of Ann Terrell, widow and relict of George W. Terrell, deceased.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Treasurer of the State be authorized and required to pay to Ann Terrell, widow of George W. Terrell, deceased, the sum of one thousand one hundred and sixty-seven dollars, it being the balance due said G. W. Terrell, as Charge d’Affaire of the late Republic of Texas to the kingdom of Great Britain: Provided, That five hundred dollars only shall be paid upon the passage of this act, and the balance at any time after the first day of January, 1849.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, March 9, 1848.

## CHAPTER 202.

## An Act to amend the several acts, incorporating the City of Houston.

Section 1. Be it enacted by the Legislature of the State of Texas, That in case of the inability of the Mayor of the city of Houston, to perform his duties by reason of absence, refusal or other cause, or in the event of a vacancy in said office, occasioned by death, resignation or otherwise, the Board of Aldermen of said city, may be and they are hereby authorized and empowered to appoint from their own body a presiding officer, who shall be Mayor pro tem, and shall have and may exercise all the powers conferred by law on the Mayor, and shall perform all the duties thereof, until his return, the removal of such inability, or a successor is elected and qualified, provided, that in case of a vacancy in said office, the city council may order an election upon ten days notice, to fill such vacancy for the unexpired term.

Sec. 2. Be it further enacted, That whenever any order, resolution, by-law or ordinance may be passed by the council, and is disagreed to by the Mayor, it shall be inoperative, unless the same shall be passed by a vote of a majority of the whole number of Aldermen, taken by yeas and nays and recorded upon the journal of their proceedings.

Sec. 3. Be it further enacted, That the Mayor and City Council, by a vote of a majority of the whole number of the Aldermen, taken by yeas and nays, and entered upon their journal, may assess and collect an annual direct tax, upon all property, real and personal, situate and being within the limits of the corporation, not exceeding one fifth of one per centum, advalorem, and shall have power to assess, and collect for the use of the city, an annual license tax, upon all persons pursuing a vocation or calling, upon which a license tax may be imposed by law, provided however, such tax shall in no case exceed said license tax, and provided further, that the said tax shall be imposed in the same ratio of the said license tax.

Sec. 4. Be it further enacted, That every person or persons, on whom or whose vocation a license tax, may have been assessed, shall, before engaging in such vocation, pay to the city Assessor and Collector, the amount of such tax, taking his receipt therefor, which receipt shall entitle him, her or them to a

corresponding license, to be issued by the Mayor. If any person or persons shall engage in any vocation, within the limits of the city, on whom or which a license tax had been assessed by the city council without having first obtained a license therefor from the Mayor, such person or persons, shall be liable to pay one fourth of the amount of such annual license tax for each week, he, she or they may be so engaged and in the same proportion for each day, which may be recovered by action before the recorder or any Justice of the Peace, or the District Court, according to the amount; one fourth part of the recovery, for the use of the informer and the balance to the city.

Sec. 5. Be it further enacted, That after the expiration of the time prescribed by law, for the payment of city taxes, the Assessor and Collector for the city, or such officer as the City Council may charge therewith, may proceed to seize upon any property, real or personal, the tax on which has not been paid or that belongs to a delinquent tax payer, and after advertising the same, in some newspaper published in the city of Houston, or by posting at three public places, in said city, if there be no newspaper published as aforesaid, for twenty days, specifying the time and place of sale, may sell at the court house door, of Harris county, to the highest bidder for cash, so much of said property as will pay the taxes thereon or may be due from such delinquent, as the case may be, together with costs of advertising and selling, unless the taxes and costs be paid before the day of sale. If the sales should not be completed on the day appointed, the Assessor and Collector may adjourn the sales from day to day until they are all completed.

Sec. 6. Be it further enacted, That at the conclusion of the sales, and on compliance with the terms thereof, by a purchaser, the Assessor and Collector shall give to such purchaser, a certificate of purchase stating the amount of tax and costs paid, and describing the property sold, which shall entitle the purchaser to a deed for said property, at the expiration of twelve months, from the Mayor of the city; but such certificate may be redeemed, within one year from the day of sale, by the owner of the property sold, or some person for them, by payment of double the amount of tax and costs paid by the holder; which payment may be made either to the city Treasurer for the use of the holder of such certificate or to the holder thereof.

Sec. 7. Be it further enacted. That if any certificate of pur-

chase, given as before provided, be not redeemed within one year from the day of sale, then the holder may demand, and it shall be the duty of the Mayor of the city to give a deed, to such holder, conveying all the right and interest of the person in whose name the property is sold, and of the owner, in case of unknown or non resident owners, in and to the property specified in the certificate, on production and delivery of the certificate to him, such deed shall be signed by the Mayor in his official capacity and countersigned by the Secretary of the Council under the city seal.

Sec. 8. Be it further enacted, That the city shall not be held responsible on any implied warranty, or for any damages under any deed or sale made for taxes, but the person injured by any neglect or malfeasance of any officer, shall have recourse against him for any damage sustained in consequence thereof.

Sec. 9. Be it further enacted, That any tax deed made as required by this act, shall be prima facie evidence, that all the prerequisites of the law have been complied with, and shall pass all the right of the person owning the property conveyed, unless it can be proven, that the tax thereon had been paid, before the sale, or the certificate of sale redeemed within the year aforesaid.

Sec. 10. Be it further enacted, That the Assessor and Collector, shall, after his sales, make returns to the Council, of all property sold, and the names of the purchasers of each parcel of property, to whom certificates of purchase may be issued; which returns shall be preserved among the archives of the city.

Sec. 11. Be it further enacted, That the Mayor and City Council of Houston, shall have power to appropriate, so much of the revenues of the city emanating from whatever source to the improvement of the public market, roads, within or without the limits of the corporation, leading to the city, as they, in their wisdom, may from time to time deem expedient.

Sec. 12. Be it further enacted, That all process from the Recorder, may be executed by the Sheriff, any Constable of the City, or the City Marshall in the same manner that similar process from Justices of the Peace is executed.

Sec. 13. Be it further enacted, That this act shall take effect and be in force from and after its passage.

Approved, March 11, 1848.

CHAPTER 203.

An Act incorporating the Houston Mechanics Institute.

Section 1. Be it enacted by the Legislature of the State of Texas, That Martin K. Snell, President, James B. Hogan and J. C. Schell, Vice Presidents, Jno. N. O. Smith, corresponding Secretary, John W. Bergin, Recording Secretary, Thomas Martin, Treasurer,

Librarian, William Gangawa, Thomas G. Green, J. R. Slocomb, William M. Barrett and S. W. Kemper, Directors; and George Henry, E. Simmler, Samuel Arnold, William H. King, H. Michels, A. Otto, F. Baumgarten, L. Brocke, G. W. Capron, J. L. Wilson, John Shea, S. L. Isaac, D. A. Smith, S. D. Staats, John P. Morris, W. Martin, S. A. Jones, James Strother, John S. Kennon, P. Brownfield, Philip Thompson, John McDermot, John Holcroft, John G. Berlin, and their successors in office, and their associate members of the Houston Mechanics Institute, be, and they are hereby declared to be a community corporate and body politic, and in the name, style, and title of the "Houston Mechanics Institute," they and their successors shall and may at all times be capable in law to have, receive and retain to themselves and their successors, property, real, personal, and mixed; also, devises and bequests of any person or persons, bodies corporate or politic, capable of making the same and the same at their pleasure, to transfer or dispose of, in such manner as they may think proper, provided always: that the said corporation or body politic shall not at any time, hold or possess property, real, personal and mixed, exceeding in value the sum of fifty thousand dollars, and provided further: that if any real estate, over and above the value of fifty thousand dollars shall accrue to said Institute, by bequest, donation or otherwise, the term of one year shall be allowed the directors, or other competent officers of the Institute, to dispose of the same.

Sec. 2. Be it further enacted, That the said corporation and their successors, by the name, style and title aforesaid, shall be forever capable in law to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in any court under or within the jurisdiction of the State, and before all Judges, officers, and other persons whomsoever, in all and singular actions, matters and demands whatsoever.

Sec. 3. Be it further enacted, That it shall and may be lawful for the said Mechanics Institute to have a common seal, and the same by the consent of a majority of the members present, at any regular semi-annual meeting, to alter or amend.

Sec. 4. Be it further enacted, That it shall be lawful for the said Houston Mechanics Institute, to adopt such constitution, by-laws, rules and regulations for the internal government of the same, as may be deemed necessary and expedient; all of which shall have the same force and effect as this enactment, provided, however, that none of the same shall conflict with the Constitution of the State, or be in contravention of any of the statutory enactments of the same.

Sec. 5. Be it further enacted, That this act shall be in full force and effect, from and after its passage.

Approved, March 11, 1848.

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#### CHAPTER 204.

An Act to establish the Galveston and Red River Railway Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That a body politic and corporate be, and the same is hereby created and established, under the name and style of the Galveston and Red River Railway Company, with capacity to make contracts, to have succession and a common seal, to make by-laws for its government, and in its said corporate name to sue and be sued, to grant and to receive, and generally to do and perform all such acts and things as may be necessary or proper for, or incident to the fulfillment of its obligations, or the maintenance of its rights under this act, and consistent with the provisions of the Constitution of this State.

Sec. 2. That the said Company be, and hereby is invested with the right of making, owning and maintaining a railway from such point on Galveston Bay, or its contiguous waters, to such point upon Red River, between the eastern boundary line of Texas and Coffee's station, as the said company may deem most suitable, with the privilege of making, owning and main-



taining such branches to the railway as they may deem expedient.

Sec. 3. That Ebenezer Allen, and such other persons as he may associate with him for the purpose, are hereby appointed Commissioners, and invested with the right and privilege of forming and organizing the said company, of obtaining subscriptions to the capital stock, and distributing the shares thereof; and generally of taking such lawful measures to secure the effectual organization and successful operation of said company, as they may deem expedient.

Sec. 4. That the capital stock of said company shall be divided into shares of one hundred dollars each, and the holders of such shares shall constitute the said company, and each member shall be entitled to one vote in person or by proxy, for each and every share he may own; and such shares of stock shall be transferable alone upon the books of the company, which books shall be kept open for the inspection of any stockholder who may wish to examine them at the office of the company, in proper business hours.

Sec. 5. That the affairs and business of the said company shall be conducted and managed by a board of directors, not to exceed nine in number, who shall be elected by the company, at such time as the said commissioners may appoint, and annually thereafter: Provided, that in case of failure so to elect at the stated time, the board of directors incumbent shall continue in office until there be an election, the time for which may be fixed by said board, whereof reasonable notice shall be given.

Sec. 6. That no person shall be eligible as a director unless he be owner of at least five shares of the capital stock; the said board shall elect a President from their number, to fill vacancies occurring from death, resignation or otherwise: have power to appoint a secretary and such other officers as they may consider necessary, and to require security for the faithful performance of their duties; also, to prescribe the time for the payment of instalments, or assessments upon the stock, and the amount of such instalments or assessments, to declare the forfeiture of such stock for non-payment; and to do or cause to be done all other lawful acts or things which they may deem necessary or proper in conducting the business of said company. A majority of said board of directors shall constitute a quorum for doing business. All instruments in writing executed by the Pre-

sident and secretary, under the seal of the company, with the consent of the board of directors, shall be valid and binding.

Sec. 7. That the said company shall be empowered to occupy such portions of the public lands, not exceeding one hundred yards in width, as the said railway or any of its branches, to be constructed in accordance with this act, shall pass through, and to take from the public lands contiguous thereto such metals, timber and other materials as may be useful or necessary in the construction and maintenance of their works, and the prosecution of their operations or business, the company paying a reasonable compensation to the State for the said privilege.

Sec. 8. That if the said company shall not commence its operations, within two years from the first day of June, 1848, and shall not have completed at least one hundred miles of the said railway within five years thereafter, then, and in such case the rights, powers and privileges herein granted to the said company, for the construction of said railway shall cease and be determined.

Sec. 9. That the said company shall have the right of constructing bridges and other improvements upon and over any water course bordering upon or crossing the said railway, or any of its branches: Provided, that the navigation of such water course shall not be obstructed thereby.

Sec. 10. That if any person shall negligently or designedly injure or destroy any of the fixtures, buildings, machines or improvements of the company, or any portion of the said railway or its branches, he shall be subject to indictment therefor, and on conviction may be punished by fine and imprisonment, and shall be also liable to the said company in a civil action for damages.

Sec. 11. That no provision contained in this act shall be so construed as to grant or allow any banking privileges, or any privilege of issuing any species of paper to circulate as money to the aforesaid company.

Sec. 12. That the said company shall have the right to charge five cents per mile for passengers and no more, and shall have the right to charge not exceeding fifty cents on the hundred pounds for freight for every hundred miles that the same may be transported on said railway: Provided, however, that the Legislature of the State of Texas shall have the right to

fix and regulate the price that said company shall charge for carrying the public mails of the United States.

Approved, March 11, 1848.

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CHAPTER 205.

An Act to incorporate Montgomery Academy.

Section 1. Be it enacted by the Legislature of the State of Texas, That the institution for the educating of youth, now located at the town of Montgomery, in the county of Montgomery, shall be, and the same is hereby established at said town, by the name of the "Montgomery Academy of Montgomery County."

Sec. 2. Be it further enacted, That C. B. Stewart, Jacob Shannon, R. F. Oliver, W. M. Rankin, Benjamin Rigly, J. H. Price, R. B. Martin, M. O. Dimon, J. Wamack, and E. J. Arnold, the President and Trustees of said Academy be, and they are hereby constituted and incorporated a body politic in deed and in law, by the name and style of the President and Trustees of the Montgomery Academy of Montgomery County, and by that name they and their successors may, and shall have succession and exercise the privileges herein granted them, be capable of suing and being sued, of pleading and being impleaded, of holding property real and personal, and mixed, and of granting, selling, and conveying the same at pleasure, of having a common seal to be changed at their pleasure, of establishing a Female Department, and such other dependent institutions as they shall deem necessary, and of doing and performing whatever else they may deem proper and necessary for the advancement of said institution, in as ample a manner as persons or bodies politic or corporate can or may by law.

Sec. 3. Be it further enacted, That this charter and these privileges shall include and extend to the present President and Trustees of said institution, and to their successors in office, so long as they shall restrict the benefits of the same to the promotion of education and the advancement of science.

Sec. 4. Be it further enacted, That on the first Saturday in November, 1848, (unto which time the present President and Trustees shall continue in office) and annually thereafter the subscribers to said institution shall elect ten Trustees to serve for the ensuing year: Provided, no one shall be held to be a subscriber, and be permitted to vote for Trustees, who has not subscribed and paid toward the erection of the buildings now used by the institute: Provided, further, that any one may become a subscriber by paying for the use of the institution such regular sum as may be determined by said Board of Trustees or their successors, and that all persons whose children are being educated at said institution, shall during such time be held to be subscribers to its support.

Sec. 5. Be it further enacted, That the election of Trustees of said Academy shall be held by the President, or in his absence by any one of the Trustees thereof; and a majority of votes from those subscribers present, and voting in favor of any person shall be sufficient to constitute such person duly elected a trustee of said academy; if, for any cause an election for trustee should not be held upon the first Saturday in November of each year, said election may be held upon first or second Saturday in said month; in all cases the President and trustees shall continue in office until their successors are elected.

Sec. 6. Be it further enacted, That said trustees, or a majority of their whole number shall elect a President of said academy to serve one year, and if they deem proper a Secretary, to continue in office until their successors are regularly elected; said President and trustees, shall have and exercise the powers constitutionally and lawfully incident to corporations and shall have power to enact such laws or rules for their own government and for the government of the schools by them established, as they may deem proper not inconsistent with the Constitution and laws of the State. Whenever vacancies occur in the offices of President or trustees, such vacancy shall be filled by the remaining trustees appointing successors to the vacancies, to continue in office until the next annual election, or until their successors are elected; if a regular election of trustees be not held upon the days herein prescribed for annual elections, a majority of the subscribers present may at any time proceed to elect trustees to serve until the next annual election can be held.

Sec. 7. Be it further enacted, That said institution shall be

open to all denominations of religion, and that this act take effect from and after its passage.

Approved, March 11, 1848.

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CHAPTER 206.

An Act for the relief of James Stewart.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Adjutant General be, and he is hereby authorized and required, to issue to James Stewart of Bastrop county, a donation claim of six hundred and forty acres of land, for being at the battle of San Jacinto, whose name was not returned upon the muster roll of his Captain, Jesse Billingsly, and that this act take effect from and after its passage.

Approved, March 11, 1848.

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CHAPTER 207.

An Act for the relief of Moses Evans, surviving administrator of H. S. Williamson, deceased.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue a patent to Moses Evans, surviving administrator of the estate of H. S. Williamson, deceased, for one-third of a league of land, by virtue of a certificate of the Board of Land Commissioners of Washington County, No. 154, and dated the 5th day of September, 1839, which certificate was, through error, issued in the name of J. H. Williamson.

Sec. 2. Be it further enacted, That this act take effect from and after its passage.

Approved, March 11, 1848.

## CHAPTER 208.

## An Act for the relief of Isaac Delany.

Whereas, the Board of Land Commissioners for the County of Sabine, issued to James Delany, a conditional certificate for 1280 acres of land; and, whereas, it appears there was no such person in the county of Sabine entitled to such a certificate, and that the certificate should have been issued to Isaac Delany; and whereas, it appears to have been a clerical error in the clerk of said Board, in issuing a certificate to James instead of Isaac Delany. Therefore:

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office is hereby required to issue a patent to Isaac Delany, instead of James Delany, he complying with the law in all other requirements.

Approved, March 13, 1848.

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CHAPTER 209.

## An Act to incorporate the City of Lavaca.

Section 1. Be it enacted by the Legislature of the State of Texas, That the citizens of Lavaca, in the county of Calhoun, be a body Corporate, by the name and style of the City of Lavaca, and by that name may sue and be sued, implead and be impleaded, in all courts and in all matters and actions whatsoever; and by that name may purchase, hold, and dispose of any estate, real or personal, within the limits of the city, for the use of the corporation, and may have a common seal, which they may alter or change at their pleasure.

Sec. 2. Be it further enacted, That the limits of said city shall be the boundaries of the league of land upon which the town of Lavaca laid out by Thomas McConnell, on Lavaca bay is situated, it being the tract of land purchased by John M. Smith, at a sale of the estate of the said Thomas McConnell.

Sec. 3. Be it further enacted, That there shall be elected,

annually, by ballot, on the first Monday of January in each and every year, one Mayor, one Recorder and eight Aldermen, to serve one year or until their successors be elected, who shall constitute the City Council, which election shall be held by the Mayor and two Aldermen, except the first, which shall be held by the Chief Justice of the county, by giving ten days notice thereof in the newspaper printed in Lavaca or otherwise: but the charter shall not be forfeited by reason of any failure to elect a Mayor and Aldermen on the day specified; but may be held at any future day, the old council remaining in office until the new council is qualified. The City Council, immediately after being qualified, shall appoint one Treasurer, one Assessor and Tax Collector, one Marshal, and as many subordinate officers for preserving the peace and well ordering the affairs of the city as they shall deem necessary; the Treasurer, Assessor and Collector, shall each give bond and security for the faithful discharge of their duty, in such amount and form as the council may determine.

Sec. 4. Be it further enacted, That the Mayor, Aldermen, and all other city officers, before entering upon the duties of their respective offices, shall take and subscribe an oath to perform the duties thereof to the best of their abilities, which oath the Mayor shall take before the Judge of Probate or a Justice of the Peace, and each of the other officers, before the Mayor or Recorder; the Mayor and Recorder shall have all the authority of Justices of the Peace, and the Marshal, all the authority of a Constable in the county.

Sec. 5. Be it further enacted, That whenever the City Council shall deem it necessary to suppress riots and disturbances, or to protect the persons or property of the citizens, when they may be threatened with dangers from any source, they shall have power to call out the citizens, to appoint a place of rendezvous, and to organize a patrol or city guard, to be continued as long as circumstances may require; and if any citizen, after being summoned by the Marshall shall fail to attend or to act as a member of the city guard, without good and sufficient cause shown, he shall be fined in any sum not exceeding ten dollars.

Sec. 6. Be it further enacted, That the Council shall have full power and authority to make and pass such ordinances and by-laws as they shall deem necessary to maintain the cleanliness and salubrity of the city; to secure the safe and convenient

passage of the streets, side walks and public ways; to prevent encroachments upon public grounds, works or city property; to order and determine the construction of side walks, at the cost of the proprietors of lots in front of which the improvement is to be made; to establish an active system of inspection over the conduct of slaves; to determine in what part of the city wooden buildings and wooden chimneys shall be allowed to be erected; to regulate the keeping and sale of gunpowder within the city; to determine on the means to be resorted to in order to prevent and extinguish conflagration; to establish one or more market places, and to determine the mode of inspection of all comestibles sold publicly; to regulate every thing which relates to bakers, butchers, tavern keepers, oyster houses, restaurats, eating houses and grog-shops, except the prices of the articles vended; and to regulate and control all public wharves, landing places, and ferries within the city limits.

Sec. 7. Be it further enacted, That whenever it may be deemed necessary, the Council shall divide the city into a convenient number of wards, each ward to be represented by at least one alderman.

Sec. 8. Be it further enacted, That the City Council shall have power to assess and collect a tax not exceeding two per cent. per annum on the value of all land and lots within the city limits; also a poll tax of one dollar each on all males of the age of twenty-one years and upward, and on the value of all slaves over the age of five years, not exceeding one-half of one per cent., annually.

Sec. 9. Be it further enacted, That the City Council shall have power to levy and collect a tax not to exceed one-fourth of one per cent., annually, upon all real estate within the city, for the express purpose of raising a public school fund, and the proceeds of such tax shall be applied to no other purpose but that of advancing the cause of education in the city of Lavaca.

Sec. 10. Be it further enacted, That the council shall have power to levy and collect a license tax upon all places of public amusements, and retail of spirituous, vinous and malt liquors, and upon drays, carts, hacks, omnibusses or other vehicles, carrying freight or passengers for hire within the city, and to regulate the rates of fare on the same.

Sec. 11. Be it further enacted, That all persons qualified to vote under the Constitution of the State, who have resided six months in the city immediately preceding the election, and have



paid a tax into the city treasury prior to the day of election, shall be entitled to vote for Mayor, Aldermen and Recorder.

Sec. 12. Be it further enacted, That a majority of the Aldermen shall constitute a quorum to do business: the Mayor shall preside at all meetings of the council, (except when prevented by sickness or otherwise, when the Aldermen present shall appoint one of their body to preside,) and shall convene the Board whenever requested so to do in writing by three of the Aldermen.

Passed, March 13, 1848.

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CHAPTER 210.

An Act to authorize Jacob F. Winfree to adopt Zachary Taylor Long as his lawful child.

Section 1. Be it enacted by the Legislature of the State of Texas, That the name of Zachary Taylor Long, infant son of Andrew Long, be, and is hereby changed to Zachary Taylor Winfree, and that said infant is hereby declared to be the adopted son of Jacob F. Winfree, and capable of inheriting the estate of said Jacob F. Winfree in the same manner as if said infant were the lawful child of said Jacob F. Winfree.

Approved, March 13, 1848.

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CHAPTER 211.

An Act for the relief of Kisiah Taylor, whose maiden name was Kisiah Cryer.

Section 1. Be it enacted by the Legislature of the State of Texas, That the title to one league of land, situated on the waters of the Navidad river, in the county of Fayette, in this State, which was granted to Kisiah Taylor, now the wife of George Taylor, of said county of Fayette, by her maiden name of Kisi-

ah Cryer, as a colonist of Austin's colony, previous to the declaration of Texian independence, and who was then the head of a family, shall be as good and valid to said Kisiah Taylor, her heirs and assigns, to all intents and purposes, as if she had not been known by any other name up to the date of the grant of said land, than her maiden name of Kisiah Cryer; and that this act take effect from its passage.

Approved, March 13, 1848.

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#### CHAPTER 212.

#### An Act to Incorporate the Town of Palestine, in the County of Anderson.

Section 1. Be it enacted by the Legislature of the State of Texas, That the citizens of the town of Palestine, in the county of Anderson, be, and they are hereby incorporated and formed into a body politic and corporate, under the name and style of "The Corporation of the Town of Palestine," and shall have the same rights and privileges, and be subject to the same regulations and restrictions as are conferred and imposed upon the citizens of Crockett, by an act to incorporate the town of Crockett, in the county of Houston, passed 11th May, A. D. 1846.

Sec. 2. Be it further enacted, That the first election for officers of said town, shall be held in said town on the first Saturday in May, 1848, and each election thereafter shall be held on the first Monday in January in each year; and that this act take effect from and after its passage.

Approved, March 14, 1848.

CHAPTER 213.

An Act to to legalize the marriage of Eli Gray with Ann Eliza Gray.

Section 1. Be it enacted by the Legislature of the State of Texas, That the rites of matrimony heretofore celebrated between Eli Gray and Ann Eliza Gray, be, and the same are hereby declared to be as valid in law as though at the time of the celebration of said marriage no legal disability existed thereto.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, March 14, 1848.

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CHAPTER 214.

An Act to incorporate Williamson Academy in the County of Hays.

Section 1. Be it enacted by the Legislature of the State of Texas, That Henry Cheatham, John D. Pitts, U. A. Young, E. T. Merri-man, C. R. Johns, and Wm. L. Massy, be and they are hereby incorporated a body politic, under the name and style of "The Trustees of Williamson Academy, capable of suing and being sued, of pleading and being impleaded, of holding property, real, personal and mixed, of selling and conveying the same at pleasure, of having a common seal, and of doing and performing, whatever else that may be proper and necessary to be done for the advancement of said institution, not contrary to the laws, and constitution of this State.

Sec. 2. Be it further enacted, That this charter and privilege, shall extend to the said Trustees and their successors in office as long as they confine the operations of the same and the benefit thereof to the promotion of useful knowledge to the young, and the advancement of the sciences; and the said institution

shall be accessible alike to all without regard to opinions in religion or politics.

Sec. 3. Be it further enacted, That the Trustees for the time being shall have full power to enact such by-laws, rules and regulations for the government of said Academy, as may seem to them necessary for that object.

Sec. 4. Be it further enacted, That the institution herein created, shall be located at or near the town of San Marcos in Hays County.

Sec. 5. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, March 14, 1848.

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#### CHAPTER 215.

##### Joint Resolution for the relief of Louis Sanches.

Whereas, Captain Louis Sanches, acting under the direction of General Thomas J. Rusk, did humanely provide for the support of many Mexican women and children, who were left destitute, in Nacogdoches County, after the rebellion in 1838, and whereas the private property of the said Louis Sanches, has been sacrificed to meet the liabilities incurred by him for the support of said women and children, and thereby the said Sanches and his own family have experienced great embarrassment and injury, and no compensation has ever been made by Government for the advances made by said Sanches, therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That the Comptroller of Public Accounts be authorized to allow and audit the claim of Louis Sanches, and the Treasurer shall pay the same in the following manner, viz; the sum of three hundred dollars payable immediately after the passage of this Resolution; the sum of two hundred dollars payable on the first day of January, A. D. 1849, out of any money in the Treasury not otherwise appropriated, and the balance of said claim, for the sum of eight hundred and eighty dollars,

shall be audited for that amount subject to future settlement by the Legislature.

Sec. 2. Be it further resolved, That this Joint Resolution shall take effect from and after its passage.

Passed, March 16th, 1848.

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CHAPTER 216.

An Act authorizing and requiring the transfer of the succession of Alexander Jordan, deceased, from the county of Nacogdoches to the county of Rusk.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Clerk of the Probate Court of Nacogdoches county, is hereby authorized and required by this act to transfer all the original papers and a transcript of the Record, relating to the succession or administration of the estate of Alexander Jordan, deceased, from his office to the office of the Clerk of the Probate Court of Rusk county, in such manner that said succession or administration, shall be entirely conducted and closed in the County of Rusk, as though it had been originally commenced in that county.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, March 15, 1848.

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CHAPTER 217.

An Act for the relief of J. Harris Catlin.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Comptroller of Public Accounts be, and he is hereby authorized and required to discharge J. Harris Catlin, from all liabilities to the late Republic of Texas, upon his fil-

ing with the Comptroller, a receipt in full for all claims the said J. Harris Catlin holds against said Republic; and that this act take effect and be in force from and after its passage.

Approved, March 15, 1848.

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## CHAPTER 218.

Joint Resolution auditing and acknowledging the claims of Stuart Perry, against the late Republic of Texas.

Whereas it appears upon the investigation of the claims of Stuart Perry that there is a balance due said Perry of thirty eight thousand, fifty three dollars and seventy three cents, from the late Republic of Texas, on account of services rendered the said Republic, and for spoliations of sundry goods, wares and merchandize, the property of said Perry, by the Custom House officers and other persons in the employ of the Government of said Republic, therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That the claims of Stuart Perry, against the late Republic of Texas, be and the same are hereby audited and acknowledged as good and valid claims against the said Republic for the amount of thirty eight thousand fifty three dollars and seventy-three cents, and that the said accounts and vouchers, shall be deposited in the office of the Comptroller of Public Accounts, and when so deposited, shall have the same force and effect, as if the same had been audited and settled by the proper accounting officer of the late Republic of Texas, provided, further, that the said amount, hereby audited is hereby declared, to be in full of all claims, and demands which the said Perry may have against the said Republic, including interest up to this date.

Sec. 2. Be it further resolved, That this Joint Resolution take effect and be in force from and after its passage.

Approved, March 15, 1848.

CHAPTER 219.

An Act for the relief of James P. Wallace and Robert M. Williamson.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Adjutant General of the State, be, and he is hereby authorized and directed to issue his land warrants, one to James P. Wallace, for sixteen hundred and eight acres; and one to Robert M. Williamson for twenty two hundred and two acres of land, which land warrants when issued, may be located on any unappropriated public domain belonging to the State, and when surveyed, patents shall issue thereon as in other cases.

Sec. 2. Be it further enacted, That when the Adjutant General delivers said warrants he shall take receipts in full, one from James P. Wallace for his bounty land as a twelve months ranger, from 17th January, 1836, and his per diem pay for four months and eleven days services; and one from Robert M. Williamson for services as Major in the ranging service of the late Republic of Texas, from the 28th November, 1835, to the 10th June, 1836.

Sec. 3. Be it further enacted, That this act be in force, and take effect from and after its passage.

Approved, March 15, 1848.

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CHAPTER 220.

An Act for the relief of Christopher Columbus Browning.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Board of Land Commissioners for the County of Travis, be and they are hereby authorized and required to issue to Christopher Columbus Browning a certificate for twelve hundred and eighty acres of land, to which he as a married man, was entitled, by virtue of his arrival in the Republic of Texas, as an emigrant, prior to the first day of October, 1837, upon said Browning's delivering to said Board, to be

canceled, the conditional certificate for six hundred and forty acres of land, heretofore granted to him by the Board of Land Commissioners for Harris County, provided said Christopher Columbus Browning introduce satisfactory proof before said Board of Commissioners that he was a married man, and emigrated to the Republic of Texas, prior to the first of October, 1837.

Sec. 2. Be it further enacted, That this act shall take effect from and after its passage.

Approved, March 15, 1848.

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#### CHAPTER 221.

Joint Resolution authorizing the transfer of one half of a certain lot in the City of Austin on certain conditions.

Section 1. Be it resolved by the Legislature of the State of Texas, That on the execution of a deed to the State, and filing the same in the office of the Comptroller of Public Accounts, by the owner of lot No. 11, in block 83 in the City of Austin, of the one half of said lot—that is to say 80 feet by 23—it shall be the duty of the Comptroller, when said deed shall have been deposited in his office, to give a certificate to that effect, which, on being presented to the Commisisoner of the General Land Office, he shall issue to the owner of the aforesaid lot, a patent for the east half of lot No. 12 in block 83, in the said City of Austin.

Sec. 2. Be it further resolved, That this Joint Resolution take effect from and after its passage.

Approved, March 15, 1848.



CHAPTER 222.

Joint Resolution confirming a certificate for one league and one labor of land issued to John Vanderworth by the Board of Land Commissioners of Austin County.

Whereas, a certificate for one league and one labor of land, was heretofore issued by the Board of Land Commissioners of Austin County, to John Vanderworth, which certificate was recommended as genuine and legal, by the local and traveling Boards of land Commissioners, appointed to detect fraudulent Land Certificates, and was so reported to the General Land Office, but owing to some informality in the form of said report, the Commissioner of the General Land Office, does not feel authorized to issue a patent thereon, Therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue a patent to John Vanderworth, upon the certificate for one league and one labor of land heretofore issued to him by the Board of Land Commissioners of Austin County and now on file in the General Land Office.

Sec. 2. Be it further resolved, That this Joint Resolution shall take effect and be in force from and after its passage.

Approved, March 16, 1848.

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CHAPTER 223.

Joint Resolution to validate the election of Mayor and Aldermen for the City of New Braunfels.

Whereas by section second of an act to incorporate the City of New Braunfels, passed the 11th day of May, A. D. 1846, it is made the duty of the Chief Justice of Bexar County to order an election for the Corporate officers of said City; and whereas by section fifteen of said act it is prescribed that

the citizens of said city should vote for the acceptance of their charter of incorporation on the second Monday of July, A. D. 1846; and whereas the election for Mayor and Aldermen of said City and also for the acceptance of its charter, was ordered by the Chief Justice of Comal County, and was held on the seventeenth day of June, A. D. 1847, Therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That the election for the acceptance of the charter of said City of New Braunfels, and for Mayor and Aldermen of the same held on the 7th day of June, 1847, by order of the Chief Justice of Comal County, be as legal and valid as if said elections had been held at the time and in the manner prescribed in the act entitled "an act to incorporate the City of New Braunfels," passed the 11th day of May, A. D. 1846.

Sec. 2. Be it further resolved, That this Joint Resolution take effect from and after its passage.

Approved, March 16, 1848.

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#### CHAPTER 224.

Joint Resolution authorizing the Comptroller of Public Accounts to transfer to S. L. Johnson an Austin City lot.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Comptroller of Public Accounts be, and he is hereby authorized to transfer to S. L. Johnson of the City of Austin, an Austin City lot, of equal size and value to one owned by said Johnson, in said City, which has formerly been appropriated, as a burying ground, on condition said Johnson relinquish his said lot to the State of Texas.

Sec. 2. Be it further resolved, That this Resolution be in force and take effect, from and after its passage.

Approved, March 16, 1848.

CHAPTER 225.

Joint Resolution for the Relief of Henry M. Smith.

Whereas, Henry M. Smith was permanently disabled in battle in defence of his country; and whereas, grants of land have heretofore been made to others, who have been so disabled, Therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby required to issue to Henry M. Smith, a certificate for one League and one Labor of Land, to be located on any of the vacant and unappropriated lands of this State.

Sec. 2. That when said certificate is located, and the land surveyed, and the field notes returned to the General Land Office, in accordance with law, it is hereby made the duty of the Commissioner, to issue a patent thereon.

Sec. 3. That this Joint Resolution take effect and be in force from and after its passage.

Approved, March 16, 1848.

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CHAPTER 226.

An Act to be entitled an act to incorporate the City of Nacogdoches.

Section 1. Be it enacted by the Legislature of the State of Texas, That the citizens of Nacogdoches be, and are hereby declared a body corporate and politic under the name and style of the "Corporation of the City of Nacogdoches," who shall have power of suing and being sued, or pleading and being impleaded, to hold and dispose of real and personal property within the limits of said corporation.

Sec. 2. That the limits of said corporation shall be as follows, to wit: Bridget's bayou to be the western boundary; the bayou LaNana, to be the eastern boundary; and a line to be run from said bayou LaNana to Bridget's bayou, due east

and west, so far as to include within the limits of said corporation the residences of James H. Starr and John Noblett, which line is to be the northern boundary line of said corporation; and it shall be the duty of the Mayor and Board of Aldermen to employ a legally authorized surveyor to run and plainly mark said boundary lines, within one month after the organization of the corporation under this act, a certified copy of the plat and field notes of said survey, shall be delivered to the principal Surveyor of the Nacogdoches Land District, whose duty it shall be to plot the same on the map of said land district, and one certified copy of said field notes shall be transmitted to the Commissioner of the General Land Office, where the same shall also be represented on the map of said land district.

Sec. 3. That it shall be the duty of said citizens to elect eight Aldermen, and that a presiding officer or Mayor, a Treasurer and Secretary, shall be elected by the Aldermen from their own body; and that a Collector and Corporation Constable be elected by said citizens; said Treasurer and Collector being required to give a bond with sufficient security, to be approved by the Mayor; which bond shall be recorded in the office of the Clerk of the County Court, and then filed with the Secretary of the corporation: the Treasurer and Collector shall make reports when required by the Mayor's warrant.

Sec. 4. That the first election under this act shall be held on the first Monday in May next, under the direction of the Chief Justice of the county, after giving ten days notice thereof, and annually thereafter by the Mayor, at least ten days prior to the expiration of his term of office; and that in case of death, or resignation, the vacancy shall be filled by new elections.

Sec. 5. That no person shall be eligible to any office in said corporate body, or entitled to vote for corporation officers, unless he shall be a citizen of the State of Texas, and shall have resided at least six months, and owns or rents real estate in said corporation.

Sec. 6. That the Mayor of the corporation of the city of Nacogdoches shall have jurisdiction and exercise the powers of a justice of the peace over all offences committed against the by-laws, ordinances and decrees of the Mayor and Board of Aldermen within the limits of the corporation; and it shall be the duty of the Chief Justice, after the first election, and annually thereafter the Mayor of said corporation, to notify the Governor of the State of the election of the Mayor: upon the re-

ceipt of such notice, the Governor is hereby authorized and required to issue to the Mayor elect a commission of Justice of the Peace, whose jurisdiction shall be limited by and confined to the by-laws, ordinances and decrees of said corporation.

Sec. 7. That the Mayor and Board of Aldermen shall have power to pass such rules and ordinances as may be necessary for the regulation of the police and the preservation of order within the corporate limits, to levy taxes for the removal of nuisances and keeping the streets in good order, as also, to drain effectually all such swamps and ponds within the corporate limits, as may be deemed necessary to the preservation of the health of the inhabitants of said city; and shall have the further power to prescribe fines and penalties for the violation of such ordinances or by-laws: provided, however, that in no case such fine or penalty exceed one hundred dollars.

Sec. 8. That the Mayor and Board of Aldermen of said corporation shall have the control of all vacant land or lots within the corporate limits, and may dispose of the same, or any portion thereof, the proceeds of which shall be applied to the improvement of said city, in such manner as the Mayor and Aldermen, or a majority may determine.

Sec. 9. That the Mayor and Board of Aldermen shall have power to regulate the streets and squares of said corporate limits, to widen or straighten the streets, close up and make new ones, whenever it may be deemed expedient, having a due regard in all cases to private property, and in all cases making a fair remuneration to the owner or owners of such property, whenever it shall be taken for public uses.

Sec. 10. That the Mayor and Board of Aldermen shall have power to lay a reasonable tax on all persons and property, both real and personal in said city, and shall also be empowered to lay a tax on all taverns and houses of public entertainment, tipling houses, billiard tables, nine or ten pin alleys, upon all merchants, wholesale or retail, and upon all lawyers and doctors in said corporation, to be assessed and collected by the collector of said corporation.

Sec. 11. That all fines and penalties assessed by the Mayor, and collected by him, or by the collector or constable of said corporation, shall be paid to the Treasurer of the corporation to be applied to the improvement of the city, in such manner as the Mayor and board of aldermen or a majority of them may determine.

Sec. 12. That for all services performed by the Mayor or Constable, the same fees shall be allowed them as by law are allowed Justices of the Peace and Constables for similar services.

Sec. 13. That the rules and ordinances of said corporation shall not be contrary to the Constitution of the United States, nor the Constitution and laws of this State.

Sec. 14. That an act entitled "an act to incorporate the town of Nacogdoches, and other towns therein mentioned," approved June 5th, 1837, so far as said act refers to the town of Nacogdoches, be, and the same is hereby repealed; and that this act take effect and be in force from and after its passage.

Approved, March 16, 1848.

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#### CHAPTER 227.

##### An Act for the relief of Thomas J. Stell.

Whereas, a certain Land Scrip Certificate for 640 acres, being No. 154, of Class No. 2, issued by the Government of the late Republic of Texas, and now owned by Thomas J. Stell, of the State of Florida, was after its location and survey, accidentally destroyed; and whereas, there is no law now in force, authorizing a duplicate of the same to be issued, by reason whereof, the said Stell is unable to obtain a patent thereon, Therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required, to issue to the said Thomas J. Stell, a patent on said Certificate in accordance with the survey made thereof.

Sec. 2. Be it further enacted, That this act take effect from and after its passage.

Approved, March 16, 1848.

CHAPTER 228.

Joint Resolution for the relief of Robert H. Beale, who was permanently disabled in the service of the country.

Whereas, Robert M. Beale, was permanently disabled in the service of the country, and whereas grants of land have heretofore been made to others for the same cause, Therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby required to issue to Robert H. Beale, a certificate for one league and one labor of land to be located on any vacant and unappropriated lands in this State.

Sec. 2. That when the survey is made, and field notes returned in accordance with law, it is hereby made the duty of the Commissioner of the General Land Office to issue a patent thereon, and that this Joint Resolution take effect from and after its passage.

Approved, March 16, 1848.

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CHAPTER 229.

An Act to incorporate the town of Goliad in the County of Goliad.

Section 1. Be it enacted by the Legislature of the State of Texas, That the citizens of the town of Goliad, in the county of Goliad be, and they are hereby declared a body politic and corporate, by the name and style of the "Town of Goliad," and by that name may sue and be sued, plead and be impleaded in all courts and in all matters and actions whatsoever, and by that name may purchase, hold and dispose of any estate, real or personal within the limits of said town, for the use of the corporation, and may have a common seal which they may alter or change at pleasure.

Sec. 2. That the boundaries of said town, and the limits within which said corporation may exercise jurisdiction, shall

be co-extensive with those set forth and described in a patent granted to said corporation by the authorities of the late Republic of Texas for four leagues of land, under date of the twenty-fifth of October, A. D. 1844.

Sec. 3. That the officers of said town shall be, one Mayor, one Recorder, one Treasurer, and five Aldermen, and may for every additional thousand of inhabitants after the first thousand, the number of Aldermen may be increased one, provided the number shall never exceed twelve, and when additions are made to the number of Aldermen, the electoral districts of said town shall be so altered and arranged as to give the every part of said town a fair representation in the body of Aldermen.

Sec. 4. That all persons who are qualified voters under the Constitution of the State, and are citizens of the town of Goliad shall be authorized to vote in elections held in said town.

Sec. 5. That there shall be a board consisting, when full, of the Mayor, Recorder and Aldermen; with the Mayor, (or in his absence, the Recorder,) as President, a majority of the whole number of Aldermen may constitute a board for the transaction of business, the President voting only in cases of equal division among the Aldermen present and voting. The board to be called the Council of the town of Goliad, shall represent the corporation, using its name in all appropriate business not otherwise provided for, and so shall have full power subject to the general law of the country and the special provisions of this charter, to regulate the further organization of the board and its own proceedings, to prescribe the duties of all officers and agents, whether elected by the qualified electors of said town, or appointed by the town Council.

Sec. 6. That every officer and agent of the corporation, before entering upon the duties of his office, and the Treasurer and other officers or agents appointed by the town council, shall before entering on the duties of their office, give bond with satisfactory security to be approved by the town council, payable to the Mayor and his successors in office, for the use of the corporation, conditioned for the faithful performance of the duties of his office. If any person elected to office under this charter fail to qualify within ten days after his election, the office shall be declared vacant and another election ordered.



Sec. 7. That the regular time for electing the Mayor, Recorder, Treasurer and Aldermen shall be the first Monday of January, annually: but elections to supply vacancies may be held at any time after ten days notice.

Sec. 8. That all elections under this charter shall be conducted in accordance with the general law regulating elections, and all contests shall be determined by the council of said town.

Sec. 9. That the office of Recorder shall supercede that of Clerk under the former charter, and all officers of the corporation duly elected, previously to the first Monday of January next, shall continue to hold their respective offices, subject to the terms of this charter until their successors shall be qualified, and so of like officers subsequently elected from year to year.

Sec. 10. That the Mayor and Recorder shall have and exercise the power and jurisdiction of a Justice of the Peace, within the limits of said town.

Sec. 11. That the town council shall have power to enact and enforce such ordinances and regulations as they may deem necessary for the government of said town; they shall have power to pass by-laws to regulate their own proceedings; shall have entire control of the police of said town, and they are authorized to levy and collect moderate and equitable taxes, on all fixed and moveable property within their jurisdiction not exceeding one half of one per centum of the State tax; and to make such laws as are necessary for recovery and collection of the same: said Council are also authorised to grant license to persons, dealers in goods and merchandize, and retailers of spirituous liquors; to grant license for billiard tables and ten pin alleys, providing no gaming establishment, contrary to law shall be licensed or tolerated.

Sec. 12. That said town council in conjunction with the County Court, are hereby empowered and authorized to sell and alienate such public lots or parcels of land, as may be within said corporation, and to which there is no legal claimant or title, and also to dispose of such houses or other buildings as may now be the property of the corporation of said town; and the town council may sue for and recover all debts and forfeitures accruing or due to said corporation, the proceeds of such debts and forfeitures to be appropriated to the erection or repair of a court house, jail, and such other public

edifices as may be necessary, and to the establishment of a public school for said town.

Sec. 13. That the Mayor and Recorder of said town shall be commissioned by the Governor.

Sec. 14. That this law take effect from and after its passage, and that all laws heretofore passed incorporating the town of Goliad, be and the same are hereby repealed.

Approved, March 16, 1848.

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#### CHAPTER 230.

An Act to incorporate the Republican Academy in the county of Harrison.

Section 1. Be it enacted by the Legislature of the State of Texas, That O. Hendrick, G. W. Young, L. D. Evans, L. B. Whitset, F. Washington, L. J. W. Busick, W. S. Taylor, S. C. T. Ford, George Dunarroy, T. A. Harris, T. T. Gamage, B. F. Young, J. R. Tanner, R. P. Brown, Henry Martin, R. A. Walton, A. D. Burrress; W. P. Hill, S. Richardson, C. Frazier, J. Stephens, C. M. Adams, N. R. Goode, and their associates and successors, be, and they are hereby created a body politic and corporate in deed and in law, by the name of the Republican Academy, and by that name may have perpetual succession and be capable in law of holding by purchase or donation, property, both real and personal in fee, for years so long as they confine their operations to the promotion of education.

Sec. 2. Books shall be opened to receive subscriptions in sums not less than ten dollars; which subscriptions may be in lands, money, labor or materials for building purposes; and any person who has heretofore subscribed, or may hereafter give the above amount, shall be considered a patron or stockholder of said Academy, may have the right to sell or transfer the stock at pleasure, and shall have the privilege of voting in person or by proxy in all elections necessary for the government of said Academy.

Sec. 3. The stockholders may have power to disfranchise any of their members by the vote of the majority of them: pro-

vided, they pay to such stockholder the amount of his subscription, with interest thereon from the time it was paid to the institution.

Sec. 4. The stockholders shall elect from their number not less than five trustees, who shall hold their office as such, for the term of one year, or until their successors are elected; whose duty it shall be to procure teachers, regulate prices of tuition, and govern generally the operations of the school, and shall have power to elect from their number, a President, Secretary and Treasurer, who shall hold their office during the term for which the trustees are elected.

Sec. 5. The Trustees shall have power to make such by-laws as they deem necessary for their own government and the management of the school: provided, they are not in conflict with the Constitution and laws of this State; and may alter and amend them at pleasure.

Sec. 6. This act shall take effect and be in force from and after its passage.

Approved, March 16, 1848.

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## CHAPTER 231.

### An Act to incorporate the Western Texas Orphan Asylum.

Section 1. Be it enacted by the Legislature of the State of Texas, That L. Bene, H. Spiess and L. C. Ervenberg, their associates and successors, be, and they are hereby constituted a body politic and corporate under the name and style of the Western Texas Orphan Asylum, with power and capacity to sue and be sued, plead and be impleaded, to own and take by purchase, devise, donation or otherwise, real and personal property, not exceeding twenty-five thousand dollars in value, and to dispose of the same, for the purpose of founding, erecting and maintaining an institution for the protection, support and education of orphan children.

Sec. 2. Be it further enacted, That the said L. Bene, H. Speiss and L. C. Ervenberg, shall be directors of said corporation and they their successors and associates shall have power to increase the number of directors to five, they can fill vacancies in their own body; elect from among themselves a

President, who shall hold his office for one year, appoint such officers as may be necessary for the proper management of the property and affairs of the corporation, and make by-laws for the regulation of their internal affairs not inconsistent with the laws of the land, they shall have a common seal which, with the signature of their President shall be evidence of their corporate acts, and they can do and perform all other acts that may be proper and necessary within the limits of this charter, for the protection, maintenance and education of indigent orphan children.

Sec. 3. Be it further enacted, That the President shall have all the rights of guardianship over the orphans in said asylum, except that he shall not have the management nor control of the estates of any such orphans.

Sec. 4. That the said Orphan Asylum shall be located in the county of Comal, and that this act take effect from and after its passage.

Approved, March 16, 1848.

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## CHAPTER 232.

### An act to Incorporate the Huntsville Male Institute.

Section 1. Be it enacted by the Legislature of the State of Texas, That Thomas G. Birdwell, Benjamin S. Wilson, George W. Rogers, James T. Sims, and Thomas King, Trustees of the Huntsville Male Institute, in the county of Walker, and their successors in office, be, and they are hereby incorporated under the name and style of the "Huntsville Male Institute," and under that name may sue and be sued.

Sec. 2. The said Trustees shall hold their offices until the first Saturday in January next, and until their successors shall be elected; and they and their successors shall have power to purchase and sell real estate, to open books for stock for the erection of all buildings and improvements necessary to carry on and support an Academy for the education of male children.

Sec. 3. The Trustees shall have power to employ teachers, to receive and dismiss students; to make rules for the govern-

ment of the Institute; to see that they are enforced; to associate with them as many subscribers of stock as they may think proper; to call meetings of the stockholders; to receive donations for the use of the Institute: Provided, That the capital stock subscribed and paid in shall never exceed the sum of twenty thousand dollars: the said Trustees shall also have power to pass a code of by-laws, not incompatible with this act of incorporation and the Constitution and laws of the State.

Sec. 4. The stockholders shall, on the first Saturday of January next, and annually thereafter, proceed to elect, at the Academy, from their body, five persons as trustees for the ensuing year. The election shall be holden by the President of the preceding board, and each share shall entitle the holder to one vote; should the election from any cause be omitted on the day pointed out, it shall be the duty of the President to give ten days notice of said election, at which time said officers shall be chosen, and all elections shall be by ballot: the person receiving the highest number of votes shall be President of the board: said board shall thereupon immediately organize, and they shall elect from amongst the stockholders, a person to act as secretary and treasurer.

Sec. 5. The Board of Trustees shall take bond and security of said secretary and treasurer in double the amount of stock paid in, for the faithful performance of his office. In all cases of the death or resignation of an officer, ten days notice shall be given by the board, and the vacancy filled by the stockholders.

Sec. 6. The secretary shall keep a faithful record of all the proceedings of the board, and of all monies received and paid out, and which shall only be paid out upon the warrant of the board, signed by the President: he shall also issue certificates of stock to all who may wish to become members, upon their making the necessary payments; and the books and proceedings of the board shall at all times be open to the inspection of any stockholder who may wish to examine the same. Transfers of stock shall not be made except upon the books of the company.

Sec. 7. The Board of Trustees shall, on the day of the election of their successors, previous to holding said election, make a full report of the proceedings of the past year, embracing the state and condition of the Institute, the number of students entered, the rates of tuition for each class, and the dividend on

the stock subscribed, which shall be subject to the call of the stockholders.

Sec. 8. A majority of the Board of Trustees shall be competent to transact any business, and may, when they deem it necessary, call a meeting of the stockholders.

Sec. 9. To avoid debt in every form, any Board of Trustees who may contract debts that they have not the means of paying by the funds placed in their hands, shall be jointly and individually responsible for the same.

Sec. 10. This charter shall continue for twenty years from and after the passage hereof.

Approved, March 16, 1848.

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## CHAPTER 233.

### An Act for the relief of Alfred Brigance.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office, be, and he is hereby required to respect as valid, land certificate No. 1,375, issued in February, 1839, to Alfred Brigance, by the Board of Land Commissioners for Harrisburg county, for 320 acres of land, the same being his headright, and that the Commissioner of the Land Office issue a patent accordingly.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved March 16, 1848.

CHAPTER 234.

An Act, supplementary to an act to regulate the Public Printing, approved, March 8th, 1848.

Whereas at the time of the passage of the above recited act, James F. Johnson had, and subsequently thereto, down to the present time has, transcribed and prepared for the press, the Journals of the present session of the Senate:—Therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That James F. Johnson be, and he is hereby authorized to complete his transcript of the Journals of the present session of the Senate, prepare the same for the press, and superintend the printing thereof as required by law, for which he shall receive the compensation fixed and allowed by the above recited act, to which this is a supplement.

Sec. 2. Be it further enacted, That this act take effect from and after its passage.

Approved, March 18, 1848.

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CHAPTER 235.

An Act for the relief of Alfred Johnson.

Whereas in the year 1838, the Board of Land Commissioners for Robertson county, issued to Alexander D. Orr, a land certificate No. 25, class 2, for one-third of a league of land, which appears by the record of the Investigating Board of Land Commissioners, to have been recommended for patent as genuine and legal; that afterwards, the said Orr sold and conveyed the same by deed duly authenticated, to the above Alfred Johnson; but from a mistake of the clerk to said investigating board, the said certificate stands as a rejected claim in the general Land Office, and a patent therefor is withheld:—Therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office, be, and he is hereby, required to issue a patent to Alfred Johnson, on certificate No. 25, 2nd class, issued to Alexander D. Orr, by the Board of Land Commissioners for Robertson county, in the same manner as if the same had been returned to the General Land Office as genuine and legal.

Sec. 2. Be it further enacted, That this act take effect from and after its passage.

Approved, March 18, 1848.

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#### CHAPTER 236.

An Act to authorize John H. Reagan and his Associates to open and construct a turnpike road from the Town of Buffalo, on the Trinity river, across the bottom to the high land, on the west side, in the direction to the Town of Corsicana.

Section 1. Be it enacted by the Legislature of the State of Texas, That John H. Reagan and his Associates, be, and they are hereby authorized to construct a turnpike road from the town of Buffalo, on the Trinity river, across the bottom thereof on the west side, in the direction to the town to Corsicana, to the high lands.

Sec. 2. Be it further enacted, That the said John H. Reagan and his associates shall have the right of way, together with timber and stone, upon such vacant and public lands through which said road may pass, which may be necessary for the construction of said road.

Sec. 3. Be it further enacted, That so soon as the said John H. Reagan and his associates shall establish all necessary ferry boats, bridges, embankments, causeways, to render said road passable and safe at all seasons of the year, the said John H. Reagan and his associates shall be authorized to demand and receive the following tolls, viz: for each wagon or other carriage, not to exceed ten cents per wheel; for each horse or mule and rider, ten cents; for loose horses, mules or cattle, not



to exceed five cents per head; for each sheep, hog or goat, not to exceed two cents per head.

Sec. 4. That there may be erected as many gates for the collection of tolls as may be deemed necessary: Provided, no person shall be required to pay toll at more than one gate; And, further provided, That persons travelling a part of the distance, shall be required to pay full toll, if such person cross the main river.

Sec. 5. Be it further enacted, That if any person or persons shall travel upon said road or drive any horses, mules, cattle, sheep, hogs or goats, wagon or other carriage, without paying the tolls therefor, or shall obstruct or damage the said road, then a right of action shall accrue to the said company, in any court having jurisdiction, to recover the tolls or damage sustained.

Sec. 6. Be it further enacted, That should any person or persons, using or travelling upon said turnpike, be detained or damaged, either in his or her person or property, by reason of the inattention, negligence, inexperience or mal conduct, of any agent or other person employed by the company, then the said John H. Reagan and his associates shall be liable to the person or persons in an action in any court having competent jurisdiction, and that said turnpike may be seized and sold as other property, to satisfy any judgment thus obtained.

Sec. 7. Be it further enacted, That said company shall enjoy, and exercise the privilege herein granted, for the term of twenty years from and after the completion of said turnpike; after which time it shall belong to the counties of Henderson and Navarro, in equal moieties.

Sec. 8. Be it further enacted, That said John H. Reagan and his associates shall have three years to complete said turnpike road, and in case the same is not completed, then this charter to be forfeited.

Approved, March 18, 1848.

## CHAPTER 237.

## Joint Resolution for the relief of Garrison Greenwood.

Whereas, a certificate for one league and one labor of land, was on the first day of February, 1838, issued by the Board of Land Commissioners for San Augustine County, to Isaac Campbell, assignee of Harrison Graham, and assigned by said Campbell, on the 16th of March, 1838, to Garrison Greenwood, which certificate was curtailed by the Board investigating Land Commissioners to one-third of a league, Therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That certificate No. 166, which issued to Isaac Campbell, assignee of Harrison Graham, from the Board of Land Commissioners of San Augustine County, on the first day of February, 1838, calling for one league and one labor of land be, and the same is hereby declared good against the State for one-third of a league of land only; and the Commissioner of the General Land Office, is hereby directed to issue a patent thereon, to Garrison Greenwood, assignee of Isaac Campbell, whenever the field notes for said certificate may be returned to the Land Office, as in other cases, and that this Joint Resolution take effect from its passage.

Approved, March 18, 1848.

## CHAPTER 238.

## An Act to incorporate Cherokee Academy in the town of Rusk in the County of Cherokee.

Section 1. Be it enacted by the Legislature of the State of Texas, That Joseph L. Hogg, L. H. Dillard, T. J. Moore, B. B. Cannon, J. H. Parsons, J. F. Henry, and E. L. Givens, be, and they are hereby appointed and incorporated a body politic, under the name and style of the trustees of Cherokee Academy, capable of suing and being sued, pleading and being impleaded, of holding property, either real, personal or mixed; of

selling and conveying the same at pleasure, and of doing and performing whatsoever else that may be proper and necessary to be done for the advancement of said institution, not contrary to the Constitution and laws of this State.

Sec. 2. Be it further enacted, That this charter and privilege shall extend to the said trustees and their successors in office, so long as they confine the benefit of the same to the advancement of the sciences and the promotion of useful knowledge to the rising generation.

Sec. 3. Be it further enacted, That the said institution may be accessible alike to all, without regard to opinions of religion or politics.

Sec. 4. Be it further enacted, That a majority of said trustees shall fill all vacancies which may occur from any cause whatever, under such rules and regulations as said majority may think best for the benefit of said academy, so as to have at all times, as nearly as may be, a full board of trustees for said institution.

Sec. 5. Be it further enacted, That the said trustees shall elect, by a majority thereof, a President and such other officers as they may deem necessary, and fill vacancies therein when they may occur, and may enact such by-laws, rules and regulations, for the government of said academy, as may seem to them necessary for that object.

Sec. 6. Be it further enacted, That the institution aforesaid shall be located upon the lot appropriated by the Commisisoners of Cherokee County, appointed to locate the County site thereof, where J. B. Mitchell, A. M., is now teaching, in the town of Rusk in said County.

Sec. 7. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, March 18, 1848.

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## CHAPTER 239.

An Act to incorporate the town of San Augustine.

Section 1. Be it enacted by the Legislature of the State of

Texas, That the citizens of the town of San Augustine be, and they are hereby declared a body corporate, by the name and title of the Incorporation of the Town of San Augustine, and by that name may sue and be sued, plead and be impleaded, and may hold and dispose of real and personal estate.

Sec. 2. That the limits of said corporation shall be one half mile square, or contain one hundred and sixty acres of land, having the public square of said town in the centre thereof.

Sec. 3. That an election for a mayor, six aldermen, a treasurer, a recorder and a constable shall be held in June, 1848, by the Chief Justice of San Augustine county, or one of the Commissioners thereof, and annually thereafter for a similar purpose an election shall be conducted by the mayor, or a majority of the aldermen acting at the time of such election, and the persons elected shall continue in office one year or until their successors are duly qualified, and the annual election for mayor and aldermen shall be held at such place in the town as may be designated by the board for the convenience of the people.

Sec. 4. That whenever a vacancy shall occur in the office of mayor, a majority of the aldermen acting shall order and conduct an election to fill such vacancy, and the person so elected shall hold the office until the next regular election or until his successor be duly qualified, and in case of the death, resignation, or removal of any alderman, treasurer, or constable the mayor shall order an election, under such rules and regulations as may be prescribed by the board to fill such vacancy.

Sec. 5. That no person shall be eligible to the office of mayor or alderman, constable or treasurer, unless such person be a citizen of said town.

Sec. 6. That the mayor shall be president of the board of aldermen; that four of the members of said board shall constitute a quorum to transact business, and that said board may enact such by-laws for the government of said town, not inconsistent with the Constitution and laws of the State, as may be deemed proper, and may impose fines for the disobedience of the same, not exceeding twenty dollars.

Sec. 7. That the board of aldermen shall have and exercise control over the public square and streets in said town, and may compel all free male citizens, (ministers of the Gospel excepted) over the age of sixteen and under forty-five, to work on the same: Provided, that such persons shall not be required to

work more than ten days in any one year, and they shall be exempt from other road duty in said county, and the board may impose such fines on defaulters as they may deem necessary, in which the board shall be governed by the laws of this State, regulating roads.

Sec. 8. That the board of aldermen shall have power to levy a tax on all persons and property, both real and personal, in said town, subject to a taxation by the laws of this State: Provided, that the tax on property shall not in any one year exceed one half of one per cent. ad valorem, on such property, and no tax shall be levied unless by two-thirds of the members present, which shall be assessed and collected by the constable in the same manner as the State tax is collected.

Sec. 9. That the board of aldermen shall have power to appoint such additional officers, with the regulations of their duties and compensation as may be necessary, and may require of them bond, with security, to the mayor, in such sum as may be deemed requisite to compel the efficient discharge of such duties as may be assigned them.

Sec. 10. That all offences against the by-laws be prosecuted before the mayor, and governed by the law organizing Justice Courts, and the constable shall execute and return all writs issued by the mayor in the same manner as is provided by law defining the duties of constables.

Sec. 11. That the constables shall give bond and security, as required of other constables, and shall have the same power and be entitled to the same fees for similar services.

Sec. 12. That the mayor of said town shall be entitled to such fees as may be allowed justices of the peace for similar services, together with such other compensation as may be allowed him by a majority of the aldermen present at the time of such allowance.

Sec. 13. That the aldermen shall be entitled to such compensation as may be allowed them by a majority of the board: Provided, that in no case shall the same exceed two dollars per day for each day they may be required to sit as such aldermen.

Sec. 14. That the treasurer shall keep safely all the money of said corporation, shall pay out the same upon the order of the board, and shall do such other duty as may be assigned him by the by-laws; he shall give bond, with security payable to the mayor, in such sum as may be deemed proper, conditioned for the faithful performance of his duties to be approved by the

board, and shall be allowed such compensation as may be specified by the board of aldermen.

Sec. 15. That the mayor be and he is hereby vested with all the powers and jurisdiction of a justice of the peace, within the limits of said corporation.

Sec. 16. That the books and records of the corporation shall, at all times, be open to the examination of any citizen of said town.

Sec. 17. That all laws and parts of laws contravening the provisions of this act be repealed, and that this act take effect from and after its passage.

Approved, March 18, 1848.

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#### CHAPTER 240.

Joint Resolution to authorize the Comptroller of the State of Texas to settle with R. S. Neighbors.

Section 1. Be it resolved, by the Legislature of the State of Texas, That the Comptroller be and he is hereby required to audit and pass upon the claims and accounts of R. S. Neighbors, late Quartermaster and Commissary in the Army of the Republic of Texas for the years 1839, '40, and '41.

Sec. 2. Be it further resolved, That this Joint Resolution take effect from and after its passage.

Approved, March 18, 1848.

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#### CHAPTER 241.

Joint Resolution for the relief of the legal heirs of Mark Noble, deceased.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Commissioner of the General Land Office is

hereby required to issue to the heirs of Mark Noble, deceased, an unconditional certificate for six hundred and forty acres of land, and issue a patent thereon, after the same shall have been surveyed according to law.

Sec. 2. Be it further resolved, That this Joint Resolution be in force and take effect from and after its passage.

Approved, March 18, 1848.

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CHAPTER 242.

Joint Resolution authorizing and requiring the Comptroller of Public accounts to issue warrants paying A. B. Gray for services, in running and marking the Eastern Boundary Line of Texas.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Comptroller be authorized and required to pay A. B. Gray, late engineer and surveyor, for services in running and marking the eastern boundary line of Texas, in three several drafts of three hundred dollars each; the first payable out of any money in the treasury not otherwise appropriated, at any time after the first day of May next; and the second payable as above, for three hundred dollars at any time after the first day of October next: and the third for three hundred dollars, payable at any time after the first day of January, 1849.

Sec. 2. That the Comptroller is hereby authorized to issue a certificate to the said A. B. Gray, for eight hundred and sixteen dollars, payable at any time after the first day of December, A. D. 1849, out of any moneys in the treasury not otherwise appropriated: Provided, the said A. B. Gray shall receipt to the Comptroller, in full, for services in running and surveying the eastern boundary line of Texas; and that this joint resolution shall take effect from and after its passage.

Passed, March 20, 1848.

## CHAPTER 243.

## An act to Incorporate the Milam Liberal Institute.

Section 1. Be it enacted by the Legislature of the State of Texas, That George B. Erath, George Green, Isaac Cook, E. R. Hubby, Daniel Monroe, William Lampkin, and J. J. Turnham, and their successors in office, be, and they are hereby incorporated a body politic, under the name and style of the Milam Liberal Institute, capable of suing and being sued, of pleading and being impleaded, of holding property, either real, personal or mixed, of selling and conveying the same at pleasure, of having a common seal, and changing the same at pleasure, and of doing and performing whatever else that may be proper and necessary to be done for the advancement of said Institution, not contrary to the Constitution and laws of this State: Provided, That the real and personal property acquired shall not at any time exceed twenty thousand dollars.

Sec. 2. That this charter and privilege shall extend to the aforesaid trustees and their successors in office, as long as they confine the benefits of the same to the advancement of the sciences, and the promotion of useful knowledge to the rising generation, which Institution shall be accessible alike to all, without regard to opinions of religion or politics.

Sec. 3. That on the first Saturday in January, 1850, (until which time present trustees shall hold their office,) and biennially thereafter, the subscribers to said Institution shall elect seven trustees for the ensuing two years: Provided, That no one shall be considered a subscriber who has not subscribed or paid ten dollars for the use of said Institution, other than tuition fees.

Sec. 4. That the trustees for the time being shall choose from among their number a presiding officer, and they shall have full power to enact by-laws, rules and regulations for the government of said Academy, as may seem to them necessary for that object.

Sec. 5. That the Institution herein created shall be located at or near the town of Cameron, in Milam county.

Approved, March 20, 1848.



CHAPTER 244.

An Act for the relief of Michael Short.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner General of the Land Office may, and he is hereby, required to issue a patent for one league and labor of Land to Michael Short, in accordance with the field notes returned to the General Land Office, by John James, District Surveyor for the county of Bexar, upon a certificate issued by the Board of Land Commissioners of Brazoria county, No. 447.

Sec. 2. That the title to said land shall be deemed as legally vested in said Short, as if all the requisitions of the law had been complied with; and that this act take effect from and after its passage.

Approved, March 20, 1848.

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CHAPTER 245.

Joint Resolution for the relief of Theodore D. Maltby, John Hervey, and Nathaniel R. Mallon, who were disabled for life in the service of the country.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby required to issue to Theodore D. Maltby, John Hervey, and Nathaniel R. Mallon, each, a certificate for one league and one labor of land, to be located on any vacant and unappropriated lands of the State.

Sec. 2. Be it further Resolved, That when the survey shall be made, and field notes returned on the same, in accordance with law, it is hereby made the duty of the Commissioner of the General Land Office to issue patents thereon.

Approved, March 20, 1848.

## CHAPTER 246.

## An Act to incorporate the Houston Lyceum.

Section. 1. Be it enacted by the Legislature of the State of Texas, That Abner Cooke, Peter W. Gray, William C. Gould, E. A. Palmer, William F. Weeks, James Walker, C. McAnnely, T. M. Bagby, and their associates and successors, be, and they are hereby constituted a body politic and corporate, for the encouragement of literary and scientific pursuits, by the name and style of the Houston Lyceum; may sue and be sued, prosecute and defend in any of the courts of this State; may grant, purchase and receive by its corporate name real and personal property not exceeding twenty-five thousand dollars in value; may have a common seal, with any device upon the same the Lyceum may determine, to be altered or changed at the will of said Lyceum; may adopt such a constitution, by-laws and regulations for the management of the affairs of the Lyceum as the regular members thereof may deem proper, not contrary to the Constitution and laws of the State.

Sec. 2. The library, cabinet, and apparatus of the Lyceum shall be exempt and free from all taxation: but the balance of the property thereof shall be regularly given in for taxation by such officer as the Lyceum may direct, according to the provisions of the tax laws of the State.

Sec. 3. That this act of incorporation shall be subject to such modification, extensions, and limitations as the Legislature may from time to time provide.

Sec. 4. That this act take effect from and after its passage.

Approved, March 20, 1848.

CHAPTER 247.

A Joint Resolution for the relief of Luis Thuner.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Commissioner of General Land Office be, and he is hereby required to issue a patent to Luis Thuner, for twelve hundred and eighty acres of land, on conditional certificate No. 1035, issued by the board of Land Commissioners of Harrisburg county, and dated November the 2d, A. D. 1838, without the necessity of his procuring an unconditional certificate.

Sec. 2. Be it further resolved, That this Joint Resolution be in force and take effect from and after its passage.

Approved, March 20, 1848.

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CHAPTER 248.

An Act for the relief of Seth Marvin.

Section 1. Be it enacted by the Legislature of the State of Texas, That the claim of Seth Marvin for sixty days service, up to the 7th March, 1842, as a minute man, in the San Patricio Company, under the command of W. J. Carnes, be, and the same is hereby audited to the amount of sixty dollars, and the State Treasurer is hereby authorized to pay to said Marvin, one-half of said amount, out of the unexpended balance of the appropriation made on the 3d February, 1842.

Sec. 2. Be it further enacted, That this act shall be in force and take effect from and after its passage.

Passed, March 20, 1848.

## CHAPTER 249.

An Act to incorporate the town of Mount Pleasant, in the county of Titus.

Section 1. Be it enacted by the Legislature of the State of Texas, That the citizens of Mount Pleasant be, and they are hereby declared a body corporate and politic, under the name and style of the corporation of the town of Mount Pleasant, and that they be entitled to and have extended to them, all the privileges, and be, in all respects governed by the provisions of "an act for the incorporation of the town of Bonham, in the county of Fannin," approved, February 2d, 1848.

Sec. 2. Be it further enacted, That this act take effect from and after its passage.

Approved, March 20, 1848.

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CHAPTER 250.

Joint Resolution for the relief of E. B. Cogswell.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Comptroller of Public Accounts be, and he is hereby required to issue to E. B. Cogswell duplicates for four Certificates of Land Scrip issued to him by Thomas Toby, on the twelfth day of August, A. D. 1836, for six hundred and forty acres, which Certificates of Scrip were numbered 476, 477, 478, and 479.

Sec. 2. Be it further resolved, That said duplicates shall have all the virtue in law that the original certificates could have had, and that this Joint Resolution be in force and take effect from and after its passage.

Approved, March 20, 1848.

CHAPTER 251.

An Act to amend the eighteenth section of "an act to incorporate the City of Austin," passed 11th May, A. D. 1846.

Section 1. Be it enacted by the Legislature of the State of Texas, That the eighteenth section of "an act to incorporate the City of Austin," passed 11th May, A. D. 1846, shall be, and is hereby amended, so that it shall hereafter read as follows, viz: that the City Council shall have power to levy and collect a city tax upon all property, persons and occupations, in the limits of the city, on which a tax is levied by the State, provided, that such tax shall not exceed one eighth the amount of the State tax upon such property, persons and occupations, and, provided, also, that such tax shall be levied in the month of January in each year.

Sec. 2. Be it further enacted, That this act shall take effect and be in force from and after its passage.

Approved, March 20, 1848.

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CHAPTER 252.

Joint Resolution for the relief of Ford and Cronican.

Section 1. Be it resolved by the Legislature of the State of Texas, That the sum of three hundred and fifty-nine dollars and eighty-five cents be, and the same is hereby appropriated to pay Ford and Cronican for transcribing the laws passed by the last Legislature, and for affixing marginal notes to the same, provided that the above amount shall be in full for all the demands of the said Ford and Cronican as Public Printers, against the State up to the commencement of the present session of the Legislature.

Sec. 2. Be it further resolved, That the Comptroller of Public Accounts be, and he is hereby required to draw his warrant on the Treasury in favor of Ford and Cronican for the above amount on receiving a properly authenticated copy of

this Joint Resolution, and that the same take effect from and after its passage.

Approved, March 20, 1848.

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#### CHAPTER 253.

##### An Act to incorporate the town of Jefferson.

Section 1. Be it enacted by the Legislature of the State of Texas, That all the free white inhabitants thereof, shall be a body corporate, by the name of the mayor and aldermen of the town of Jefferson, and by that name, they and their successors, shall be known in law, and be capable of suing and of being sued, in all courts of this State, and shall have a common seal, and by the same, shall be capable of holding and conveying property, real and personal, for the use of said corporation.

Sec. 2. That there shall be a mayor and five aldermen of said town, and as many subordinate officers, elected by the citizens of said town as may be necessary to enforce all the laws and regulations of said corporation, which said officers shall, before they enter upon the discharge of the duties assigned them, shall take and subscribe an oath before some officer authorized to administer the same, that they will faithfully and promptly discharge, all the duties assigned them, under this act and the laws regulating the same.

Sec. 3. That the first mayor and aldermen, shall be elected by a vote by ballot of all citizens of said town, who have resided within the corporate limits thereof, for the term of three months, which election shall be held, by the Chief Justice of the county of Cass, after giving ten days notice, in three public places in said town, and said election shall be conducted in accordance with the laws regulating elections of county officers, held annually, on the first Monday in January, and when so elected and qualified as aforesaid, they shall have full power, and authority to make and pass such ordinances as they shall deem necessary to maintain the cleanliness and salubrity of said town; to secure the safety and convenience of passing in the streets and squares, ways, lanes and other public streets and

alleys; to fix the squaring and to prevent any encroachment or other undertaking on the said streets; to determine the completion and dimensions, the maintenance and repair of pavements in said streets, at the cost of the proprietors of houses, lands or neighboring lots, to fix the place or places of landing and anchoring for all water crafts, in the stream adjacent thereto; to establish an active system of inspection over the slaves of said town; and those employed in any water craft, that may be at such landing; to establish a town guard or patrols; to provide for the lighting the streets; to determine in what part of the town, wooden chimneys shall be allowed to be erected; to prevent gunpowder being stored within the town and suburbs, in such quantity as to endanger the public safety; to determine on the means to be resorted to extinguish conflagration and to prevent the same; to regulate the service of persons employed in working fire engines; to permit or forbid all public amusements; whenever the preservation of order, tranquility or public safety may require it; to establish market places; to erect all public buildings; to determine the mode of inspection, for all marketable commodities, sold publicly in said town; to regulate every thing which relates to bakers, butchers, tavern keepers, and all establishments in which liquors or food of any kind are sold, or persons keeping any public house whatever; to regulate the prices of draymen and teamsters, water carriers, to erect bridges whenever the public convenience of the citizens of said town may require it, and to make all other regulations which may contribute to the better administration of the affairs of said corporation, as well as for the maintenance of the tranquility and safety of the same, provided, that no ordinance of said corporation shall be enforced, that is contrary to any law of this State, or of the United States: and all official acts of said corporation shall be sanctioned by a majority of all the members of the same, except the levying of a tax, which shall require the votes of two-thirds of the members of said corporation.

Sec. 4. That so soon as the first mayor and aldermen are qualified under the provisions of this act, they shall proceed to lay off the corporate limits of said town, to include the lands covered by the head right certificates of Allen Urquhart and Stephen Smith, and divide the same into five wards, in each of which, in all subsequent elections, there shall be elected, one alderman, by a majority of all the voters living in said ward; and that said mayor shall be elected, by a majority of all the

votes of said corporation, and said mayor and aldermen, shall elect from among their number, a Recorder and Treasurer, and from among the citizens of said town, an officer to be styled the town constable, who shall perform such duties as may be assigned him by said mayor and aldermen. The said mayor and aldermen shall keep a record of all their official acts, which shall be at all times open for inspection for the public, and pass all by-laws for their own government.

Sec. 5. That no ordinance shall take effect or be enforced until the same has been published for five days, in said corporation, and all sums of money collected, from any source whatever, shall be collected by the town constable, or Treasurer in such manner, and under such regulations as may be made by the mayor and aldermen; and no tax shall ever be imposed at a higher rate than the State tax assessed upon the same property, nor any person be fined for the violation of any ordinance, more than the sum of fifty dollars.

Sec. 6. That all his expenses and official acts of the said corporation, shall be published once, every six months, except the ordinances and by laws, which shall be published forthwith, after their enactment; and that all resident citizens of said town, who pay taxes to said corporation, shall not be required to work on roads and highways.

Sec. 7. That the mayor of said corporation, shall have the same jurisdiction over offences committed against the by-laws and ordinances of said corporation, as justices of the peace; and that a town constable shall have the same power and authority as a constable, in enforcing the laws of the State, and shall be governed in all their official acts, by the laws of the State, governing justices of the peace and constables, and that all taxes assessed by said corporation, shall be collected under the laws regulating the collection of taxes for the State.

Approved, March 20, 1848.



CHAPTER 254.

Joint Resolution authorizing the Commissioner of the General Land Office to issue a patent to Edward Hall,

Section 1. Be it resolved by the Legislature of the State of Texas, That the Commissioner of the General Land office be, and he is hereby required to issue a patent for one League of land to Edward Hall, by virtue of a resolution of the Consultation "granting him a donation of one League of land" passed November 9th. 1835, on the presentation of a copy of said resolution and the field notes of the survey at the General Land Office.

Approved, March 20, 1848.

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CHAPTER 255.

An Act to incorporate the German Texian Friendship Association of Galveston.

Section 1. Be it enacted by the Legislature of the State of Texas, That D. E. Rump, H. W. Wagner, F. W. Bumgarten, and their successors and associates in office be, and they are hereby constituted a body corporate and politic for the promotion of education morality and benevolence under the name and style of "the German Texian Friendship Association," and by that name, may receive, hold, enjoy sell, convey and alienate property real and personal, provided the amount so held shall at no time exceed in value twenty-five thousand dollars, and by the aforesaid name may sue and be sued, defend and be defended, in any Court of law or equity within this State.

Sec. 2. Be it further enacted, That said Association shall have power to make such by-laws as they may deem necessary for their own government not contrary to the Constitution and laws of this State and may elect from their own body all the officers necessary for conducting the business of the Association.

Sec. 3. Be it further enacted, That the privileges hereby conferred, shall extend to the present trustees and their successors in office so long as they confine their action to the promotion of education and benevolence.

Sec. 4. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, March 20, 1848.

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#### CHAPTER 256.

#### An Act to incorporate the Galveston Steam Ferry, Freight and Tow Boat Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That A. C. Crawford, Albert Ball, Joshua C. Straw, A. Baldinger and Stephen Southwick, together with such other persons as shall associate with them for the purposes hereinafter mentioned, shall be, and they are hereby created a body corporate and politic under the name and style of the Galveston Steam Ferry, Freight and Tow Boat Company, and by this right, and under this title to transfer their right by succession or assignment, and as such shall be capable of suing and being sued, answering and being answered unto, defending and being defended in all Courts of law or equity, to have a common seal, and the same to use and alter, and of purchasing, holding, leasing selling and conveying estates, either real, personal or mixed, to receive donations, borrow money, and to have, exercise and enjoy all the rights and privileges incident to corporations so far as may be necessary to carry out the objects for which said company is created and not inconsistent with the Constitution of this State and the United States.

Sec. 2. That the Capital stock of said Company shall be one hundred thousand dollars and the same to be divided into shares of twenty-five dollars each.

Sec. 3. That said Company shall have full power to transport passengers, cattle, produce or any and all other species of property or freight from any point on Galveston Island to any other point on the waters of Galveston Bay or any of the trib-

utaries thereof, or from any such place or places to Galveston Island, to tow vessels in, and out of Galveston Harbor, and to do and perform all other matters necessary and proper to promote those objects.

Sec. 4. That all vessels towed into, or out of the port of Galveston, by any of the boats or vessels of said Company, shall be exempt from the payment of pilotage whenever pilot service has not been required.

Sec. 5. That the management of the affairs of said Company shall be by a board of seven directors, each of whom shall own at least ten shares of the stock of said Company, a majority of whom shall constitute a quorum for the transaction of business. They shall appoint one of their number a President, and shall fill such vacancies as may occur in their board, from death, resignation or otherwise, and shall hold their office for one year, and until others are elected in their stead.

Sec. 6. That said President and Directors shall have power to fix once in each year a uniform rate of ferriage, freight and tonnage to be charged by said Company: to appoint employ and fix the compensation of such subordinate officers, agents and servants, as the affairs of the company may require, and to make all needful by-laws, rules and regulations for the government of the affairs of said Company and not inconsistent with this act, and such general rules and directions as may be adopted by the stockholders at any regular meeting.

Sec. 7. That books for the subscription of stock shall be opened on or after the tenth day of April, 1848, at the City of Galveston under the superintendence of Alfred F. James, James Cronican and John U. Durst, or any two of them, acting as Commissioners, and shall remain open until the entire amount of stock is subscribed for; and five dollars in cash shall be paid said Commissioners for every share of stock so subscribed for at the time of subscribing; that as soon as four hundred shares of said stock shall be subscribed for, and the said five dollars paid upon each share, the said Commissioners shall call a meeting of the stockholders at which the Company shall be organized by the election of directors. As soon as directors are elected, said Commissioners shall hand over to them the subscription books and all such monies as shall have been paid them on payment of stock, each stockholder shall be entitled

to one vote for every share of stock owned by him, and may either vote in person or by proxy.

Sec. 8. That said Board of Directors may at any time call upon the stockholders for the payment of any additional instalments upon said stock that may be required by the wants of the Company, in case any instalment so ordered shall remain unpaid for the space of thirty days beyond the time fixed by the Directors for payment thereon, the owner or owners thereof shall forfeit the same to the Company, together with all previous payments made thereon, and the books of the Company shall be open for the subscription of an amount sufficient to make up the deficiency.

Sec. 9. That the Directors shall make declare and pay to the stockholders such dividends as may result from the profits of the business of the Company, at such time and in such manner as they may be directed by the stockholders at any regular meeting thereof, provided, that no such dividend shall impair or in any way lessen the capital stock of the company or such part thereof as shall have been paid in at the time of making such dividend.

Sec. 10. That said Company shall keep a regular set of books, upon which shall be entered and kept a correct account of all the receipts and disbursements, by and from said Company, which book shall be opened to the inspection of any stockholder.

Sec. 11. That this act shall take effect from and after its passage.

Approved, March, 20, 1848.

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## CHAPTER 257.

### An Act to incorporate the Goliad Statistical Society.

Section 1. Be it enacted by the Legislature of the State of Texas, That the present and associate members of the Goliad Statistical Society and their successors shall be a body politic and corporate; the society may adopt such ordinances (not inconsistent with the Constitution and laws of the general and

State Government) as it may deem proper for its organization and for conducting its affairs. The leading objects being to obtain and diffuse statistical knowledge, particularly concerning the southwestern part of the United States with the adjacent country. The society may hold real and personal property, not to exceed twenty thousand dollars in value at any one time, and may dispose of any part thereof, or the whole at pleasure, but subject to the payment of any debt then existing against the society, which shall not contract debts amounting at any particular time to more than one thousand dollars.

Approved, March 20, 1848.

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CHAPTER 258.

Joint Resolution for the relief of Allen Kellough.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Adjutant General be, and is hereby authorized and required to issue to Allen Kellough, land scrip for one thousand six hundred and fifty-nine acres of land, to be surveyed at his own expense, on any unappropriated domain in the State; provided; that the said Kellough shall file in the Adjutant General's office, his written relinquishment to all demands against the State for military services.

Approved, March 20, 1848.

## CHAPTER 259.

Joint Resolution authorizing M. M. Potter to draw the mileage and per diem of the Hon. Richard Bache; Senator from Galveston, deceased.

Section 1. Be it resolved by the Legislature of the State of Texas, That M. M. Potter be, and he is hereby authorized to draw the mileage and per diem pay of Hon. Richard Bache, deceased, for his services during the second session of the State Legislature, and that the accounting officer of the Treasury Department audit the same, and that this act be in force from and after its passage.

Approved, March 20, 1848.

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CHAPTER 260.

Joint Resolution granting leave of absence to James B. Shaw, Comptroller of Public Accounts.

Section 1. Be it resolved by the Legislature of the State of Texas, That James B. Shaw, Comptroller of Public Accounts, be allowed leave of absence for the term of six weeks from his office during the year 1848, and that this Joint Resolution take effect from and after its passage.

Approved, March 20, 1848.

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CHAPTER 261.

An Act supplementary to an act to incorporate the town of Refugio.

Section 1. Be it enacted by the Legislature of the State of Texas, That all persons residing within the limits of the town

tract of Refugio who are entitled to vote for members of the Legislature under the Constitution and laws of this State shall be deemed qualified electors and shall be permitted to vote for Mayor, Alderman, or any other officer created under said act of incorporation to which this is a supplement.

Sec. 2. Be it further enacted, That all property belonging to said town tract of Refugio which shall hereafter be offered for sale by said corporate authorities shall be sold at public auction, after giving notice of said sale by publishing the same in the nearest newspaper for at least sixty days previous to the sale of said property, and provided that not more than one fourth of said town lots and one fourth of said farm lots shall be sold during any one year.

Sec. 3. Be it further enacted, That all sales of property belonging to said town tract of Refugio which sale hereafter be made contrary to the provisions of this act shall be void.

Sec. 4. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, March 20, 1848.

## STATE OF TEXAS.

I, the undersigned, Secretary of State of the State of Texas, certify that the second Legislature of said State commenced its session at the City of Austin, on Monday, the thirteenth day of December, in the year one thousand eight hundred and forty-seven, and adjourned on the twentieth day of March, in the year one thousand eight hundred and forty-eight.

And I further certify, that the Acts and Joint Resolutions contained in this Part and Volume, are true copies of the original rolls deposited in the Department of State, with which they have been carefully compared.

Given under my hand and official seal, at the city of Austin, the fifth day of May, one thousand eight hundred and forty-eight, and of the independence of Texas the thirteenth year.

[L. s.]

W. D. MILLER.



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**LAWS**

**OF**

**THE THIRD LEGISLATURE**

**OF**

**THE STATE OF TEXAS**

**VOLUME III.**

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**PUBLISHED BY AUTHORITY.**

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**AUSTIN.**  
**1850**

\*.\* For more convenient reference, the laws contained herein are severally designated by chapters and numbers, in regular series. The laws of the first Legislature are considered as being embraced in volume I, those of the second in volume II, and of the present in volume III.

\*.\* The laws of the present or third volume, are divided into two parts—Part I, containing those denominated “laws of a general nature,” and part II, those “for private relief” and incorporating towns, cities, institutions of learning, and private associations of every nature,” in conformity to the provisions of Chapter 71, Section 2, Volume II.

\*.\* Those laws signed by the Governor, are designated by the word Approved — and those not signed by him, are said to be Passed.



VOLUME III — PART I.

## GENERAL LAWS.

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### CHAPTER I.

An Act to provide an appropriation for the payment of the Mileage and Per Diem Pay of the Members of the Legislature of the State of Texas.

Sec. 1. Be it enacted by the Legislature of the State of Texas, That the sum of fifteen thousand dollars be, and the same is hereby appropriated for the payment of the mileage and per diem pay of the members of the Legislature of the State of Texas; also, for the payment of the per diem pay of the officers attendant thereon.

Sec. 2. Be it further enacted, That the Treasurer be, and he is hereby authorized and required to pay all drafts which shall be drawn by the Speaker of the House of Representatives, attested by the Chief Clerk of said House, and all drafts which may be drawn by the president of the Senate, attested by the Secretary of the same, for the payment of the mileage and per diem pay of the members of each House of said Legislature, and the per diem pay of the officers attendant thereon, out of any moneys in the Treasury appropriated by this act; and that this act take effect from and after its passage.

Approved, November 20, 1849.

## CHAPTER II.

An Act to extend the Eastern Boundary of the State of Texas, so as to include within its limits the western half of Sabine Pass, Sabine Lake and Sabine River, up to the Thirty-second Degree of North latitude.

Sec. 1. Be it enacted by the Legislature of the State of Texas, That in accordance with the consent of the Congress of the United States, given by an act of said Congress, approved July 5th, 1848, the Eastern Boundary of the State of Texas be, and the same is hereby extended so as to include within the limits of the State of Texas, the western half of Sabine Pass, Sabine Lake and Sabine River from its mouth as far north as the thirty-second degree of north latitude; and that the several counties of this State, bounded by said Sabine Pass, Sabine Lake and Sabine River from its mouth as far north as the thirty-second degree of north latitude, shall have and exercise jurisdiction over such portions of the western half of said Pass, Lake and River as are opposite to said counties respectively; and this act shall take effect from and after its passage.

Approved, November 24, 1849.

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CHAPTER III.

An Act appropriating Five Thousand Dollars for the Contingent Expenses of both Houses of the Legislature.

Sec. 1. Be it enacted by the Legislature of the State of Texas, That the sum of Five Thousand Dollars be, and the same is hereby appropriated to pay the contingent expenses of both Houses of the Legislature.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, November 26, 1849.

CHAPTER IV.

An Act to repeal a portion of An Act to give to each corporate County in this State its own County Surveyor, Map and Records, approved March 20, 1848.

Sec. 1. Be it enacted by the Legislature of the State of Texas, That the proviso contained in the sixth section of the above recited act be, and the same is hereby repealed.

Sec. 2. Be it further enacted, That this act take effect from and after its passage.

Approved, November 30, 1849.

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CHAPTER V.

An Act to amend the first Section of An Act fixing the time at which Laws passed shall go into effect, etc., approved 16th January, 1840.

Sec. 1. Be it enacted by the Legislature of the State of Texas, That the first section of an act, approved 16th January, 1840, fixing the time at which laws passed shall go into effect, be so amended as to read as follows: Section 1. Be it enacted by the Legislature of the State of Texas, That every law hereafter made, shall commence and be in force with the commencement of the sixtieth day after the day of the adjournment of the session of the Legislature at which such law may be passed, unless in the law itself another time for the commencement thereof be particularly mentioned.

Approved, December 1, 1849.

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CHAPTER VI.

An Act providing for running and establishing correctly, the line between Nacogdoches and Fannin Land Districts.

Sec. 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be,

and he is hereby authorized and required without delay, to appoint some competent and disinterested surveyor, to run, mark, and fully establish the line separating the Nacogdoches and Fannin Land Districts, according to an act better defining the boundaries of the county of Fannin, approved 28th November, 1839.

Sec. 2. That said surveyor shall make out and return a complete map, together with the field notes, of his work relative thereto, to said Commissioner, as soon as practicable; and if approved of by him, shall thereafter be the true and established line thereof.

Sec. 3. That for each lineal mile, actually run and established as aforesaid, the said surveyor shall receive from the public treasurer, three dollars, out of any money not otherwise appropriated; and said Commissioner is hereby authorized and required, (in case the said work is approved of by him,) to issue an order on said treasurer for the amount; and upon the presentation of said order, he shall pay the same to the said surveyor, or his order.

Approved, December 1, 1849.

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## CHAPTER VII.

Joint Resolution requesting the Contractor of the Mail Route from Austin to Clarksville, by way of Bonham, to transport the Mail on said Route semi-weekly instead of weekly, and making provisions for the same.

Sec. 1. Be it resolved by the Legislature of the State of Texas, That William H. Hunt, contractor for the transportation of the mail from the City of Austin to Clarksville, by way of Bonham, Fannin county, be requested to transport the same semi-weekly instead of weekly, during the present session of the State Legislature.

Sec. 2. Be it further resolved, That our Senators in the Congress of the United States be instructed, and our Representatives requested, to procure an appropriation to remunerate said contractor for such extra service; and that the Governor forward a copy of these resolutions to the Postmaster General at Washington City, and also to each of our Senators and Representatives in Congress.

Approved, December 1, 1849.

CHAPTER VIII.

An Act to establish the Per Diem and Mileage Pay of the Electors of President and Vice President of the United States.

Sec. 1. Be it enacted by the Legislature of the State of Texas, That the electors of President and Vice President of the United States, shall receive the same pay for mileage in travelling to and from the seat of government of the State, and the same pay daily, while engaged there in the performance of the duties required of them by law, as that allowed by law to the members of the Legislature of said State.

Approved, December 1, 1849.

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CHAPTER IX.

An Act to amend the second and third Sections of an Act entitled an Act establishing more permanently the Seat of Justice of Collin county, approved January 12, 1848.

Sec. 1. Be it enacted by the Legislature of the State of Texas, That the second section of said Act shall be, and is hereby amended, so as to read as follows: Sec. 2. Be it further enacted, That the proceeds arising from the sale of said lots in said county, or from other donations, shall be applied, under the direction of the County Court, first, for the erection of public buildings in said town: That the Commissioners named in the first section of the Act, the sections whereof are hereby amended, be, and they are hereby required to settle with the County Court of Collin county, at its first regular term after the passage of this Act, or at any time thereafter when required by the County Court of said county, and to pay over to said court all moneys remaining in their hands which have been collected by them, arising from the sale of lots in the town of McKinney; also, to turn over to said Court all books, papers, deed or deeds, bond or bonds, notes, maps, and all things pertaining in anywise to the donation made by William Davis to them as Commissioners appointed to receive donations and locate the Seat of Justice of Collin county; and thereafter their duties as said Commissioners shall cease and determine: That if the said Commissioners, or any of them, shall neglect or refuse when called on by the said County Court,

to settle with said Court, in compliance with the first section of this Act, they, and any or every one of them shall forfeit and pay for the use of said county, double the amount of damages which the said county may sustain from such neglect or refusal, to be recovered before any Court having competent jurisdiction: And that the County Court of Collin county is hereby authorized to sell and convey the unsold lots in the town of McKinney, at such times, and on such lengths of credit, as they may think proper, and to apply the unappropriated proceeds arising from the sales of lots in the town of McKinney, to the redemption of the liabilities of said county, or in any other way they may think the good of the county requires.

Sec. 2. Be it further enacted, That the third section of said Act shall be, and is hereby amended, so as to read as follows: Sec. 3. Be it further enacted, That this Act shall take effect from and after its passage; and that so much of the Act to which this is an amendment as conflicts with this act be, and the same is hereby repealed; and that this Act shall take effect and be in force from and after its passage.

Approved, December 3, 1949.

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## CHAPTER X.

An Act regulating the election of Clerks of the District Courts in the several Counties of this State.

Sec. 1. Be it enacted by the Legislature of the State of Texas, That there shall be elected by the qualified voters for members of the Legislature, on the first Monday in August, in the year eighteen hundred and fifty, one Clerk of the District Court in each and every County in the State of Texas, where four years shall have elapsed since the election of the incumbent in the office of District Clerk.

Sec. 2. Be it further enacted, That on the first Monday in August, in the year eighteen hundred and fifty, and on the first Monday in August every two years thereafter, a regular election shall be held in each and every county where vacancies have already occurred, or may hereafter occur; in the office of the Clerk of the District Court, by death, resignation, removal, or the lapse of four years from the date of the incumbent's election.

Sec. 3. Be it further enacted, That in each and every county

where a vacancy in the office of Clerk of the District Court now exists, or may hereafter occur, before the first Monday in August, in the year eighteen hundred and fifty, or between the times specified in this Act for holding regular elections to fill the vacancies in said office, the Judge of the District Court, in vacation or in term time, shall appoint some suitable person Clerk of the District Court, to fill said office until the first regular election thereafter is held according to the provisions of this Act. The order making the appointment shall be entered on the minutes of the District Court, at the first term held in such county after the said appointment; and the Clerk so appointed, shall give bond in the manner now prescribed by law.

Sec. 4. Be it further enacted, That this act take effect from and after its passage.

Approved, December 5, 1849.

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## CHAPTER XI.

An Act to exempt Buildings and Grounds designed and used for purposes of Education or Public Worship, from taxation.

Sec. 1. Be it enacted by the Legislature of the State of Texas, That all buildings, with their furniture and library, designed and used solely for purposes of education or public worship, together with the land owned by said institutions of learning or churches, upon which the same may be situated, not exceeding ten acres, shall be, and the same are hereby exempted from taxation.

Approved, December 12, 1849.

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## CHAPTER XII.

An Act authorizing and requiring the Governor to subscribe, on behalf of the State, for fifteen hundred copies of a Digest of the Laws of Texas, proposed to be published by O. C. Hartley, Esq.

Sec. 1. Be it enacted by the Legislature of the State of Texas, That the Governor be, and he is hereby authorized and

required to subscribe, on behalf of the State, six thousand five hundred dollars, for fifteen hundred copies of a Digest of the laws of Texas proposed to be published by O. C. Hartley, Esq.: Provided, that the copies subscribed for shall be delivered in the office of the Secretary of State within twelve months from and after the adjournment of the present session of the Legislature.

Sec. 2. Be it further enacted, That a certificate from the Secretary of State, stating that fifteen hundred copies of said Digest have been deposited in his office, with a certificate from the Attorney-General, stating that said copies of said Digest are bound in law calf with spring backs, on heavy paper, in digest form, and executed in good style, according to the plan proposed, which is hereby ordered to be filed in the office of the Secretary of State, shall be sufficient authority to the Comptroller to draw a warrant on the Treasurer in favor of said O. C. Hartley, Esq., for the sum of six thousand five hundred dollars; which said sum is hereby appropriated for that purpose.

Approved, December 18, 1849.

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### CHAPTER XIII.

An Act to authorize and empower all State, District and County Officers to continue to perform the duties of their respective offices, until their successors shall be elected and qualified according to law.

Sec. 1. Be it enacted by the Legislature of the State of Texas, That all officers of the State and of each District and County therein, when the time for which they were respectively elected or appointed shall have expired, shall be hereby authorized and empowered to perform the duties of their respective offices until their successors shall be duly qualified; and that this act shall take effect from its passage.

Approved, December 18, 1849.



CHAPTER XIV.

An Act to authorize the several Clerks of the County Courts in the State of Texas to take the separate acknowledgment of Married Women to Deeds executed by them.

Sec. 1. Be it enacted by the Legislature of the State of Texas, That the several Clerks of the County Courts be, and they are hereby authorized to take the separate acknowledgment of deeds executed by married women, under the same rules and regulations as are prescribed for Judges of the Supreme or District Courts, or Notaries Public, in an act entitled "An act defining the mode of conveying property in which the wife has an interest," approved April 30, 1846.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, December 18, 1849.

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CHAPTER XV.

An Act to make valid the acts of Thomas R. Hill, as Clerk of the District Court of the County of Titus.

Whereas, Thomas R. Hill was elected Clerk of the District Court in the county of Titus on the seventh day of April, in the year eighteen hundred and forty-nine, and,

Whereas, the said Thomas R. Hill, after giving bond and entering upon the duties of said office, resigned without having received a commission from the Governor of the State; therefore,

Sec. 1. Be it enacted by the Legislature of the State of Texas, That all the acts of said Thomas R. Hill, or his Deputy, as Clerk of the District Court in the county of Titus aforesaid, be, and the same are hereby legalized and made valid, as though he had received a commission in conformity to law; and that this act take effect and be in force from and after its passage.

Approved, December 18, 1849.

## CHAPTER XVI.

## An Act for ceding to the United States jurisdiction of certain lands in this State for public purposes.

Sec. 1. Be it enacted by the Legislature of the State of Texas, That the United States be, and they are hereby authorized and empowered to purchase, acquire, hold, own, occupy and possess such land or lands, within the limits of this State, as they shall judge it expedient and shall seek to occupy and hold, as sites on which to erect and maintain lighthouses, forts, garrisons, military stations, magazines, arsenals, dock-yards, and other needful buildings, or any of them, as contemplated and provided in the constitution of the United States; said purchases to be effected either by contract with the owner or owners of said land or lands, or in the manner hereinafter provided.

Sec. 2. Be it further enacted, That if the executive officer, or other authorized agent employed by the United States to make such purchase or purchases, and the owner or owners of the land or lands contemplated to be purchased as aforesaid, cannot contract or agree for the sale and purchase thereof, it shall be lawful for such officer, or other agent, to apply in writing to the Judge of the District Court of the county in which such land or lands, or the greater portion thereof, may be situated, to estimate the value of such land or lands, in the manner hereinafter mentioned, and to order a conveyance of the same to the United States, for the purposes aforesaid; whereupon it shall be the duty of said Judge, and he is hereby authorized and empowered, after reasonable notice given to said owner or owners, their legal representatives or guardians, to hear and finally determine the value of the land or lands in question, by a competent jury, under oath, to be summoned by the Sheriff, or other proper officer of said court, for that purpose; or by a committee of three persons, such as shall be agreed upon and appointed by the parties aforesaid — such committee, if agreed on and appointed as aforesaid, to be duly sworn faithfully and impartially to value the land or lands last aforesaid; and the value thereof being thus ascertained, to the satisfaction of said Judge, after survey thereof, duly made under the direction of himself, or by consent of said parties, and after such other proceedings in the premises as he shall deem right and proper, he shall order and decree the same to be conveyed in due form to the United States, to be held, owned, and possessed by them, for the purposes aforesaid, and none other: Provided, that the amount of such valuation, with the reasonable costs of

such owner or owners attending such proceedings, shall be paid to him, her or them, or into said court for his, her or their use, before execution or record of said conveyance: and Provided moreover, that if it shall appear to said Judge, upon objection made by said owner or owners, their representatives or guardians, that the quantity of any given tract, parcel or extent of land, sought to be purchased as aforesaid, is greater than is reasonable, he may, in his discretion, refer the matter of such objection to the Governor of this State, for his determination.

Sec. 3. Be it further enacted, That if the executive officer, or other authorized agent employed by the United States, to make such purchase, as contemplated in this act, shall be unable to ascertain who the real owner or owners of such land desired to be purchased, may be; or if it is uncertain in whom the title to such land may be, it shall be lawful for such officer or other agent, to apply to the Judge of the District Court, as contemplated in this act, giving a full description of the land; and after eight weeks notice of such application shall have been given, by publication in some newspaper printed and published in the county where the land is situated; or in case there is not a newspaper published in the county, then in the newspaper published the nearest to said county, such Judge shall call a jury to assess the value of said land, and shall proceed thereon as contemplated in the second section of this act; and the amount of the value of land so ascertained, shall be paid into the treasury of the State, there to be subject to the order of the owner or owners, when known; and the clerk of the court shall make a conveyance of the land, under the orders of the court, which conveyance shall be as valid and binding as if the same had been made by the real owner of the land.

Sec. 4. Be it further enacted, That whenever the United States shall contract for, purchase or acquire any land or lands, within the limits of this State, for the purposes aforesaid, in either of the modes above mentioned and provided, and shall desire to acquire constitutional jurisdiction over such land or lands, for said purposes, it shall and may be lawful for the Governor of this State, upon application made to him in writing, on behalf of the United States, for that purpose, accompanied by the proper evidence of said purchase, contract or acquisition, of record, describing the land or lands sought to be ceded by convenient metes and bounds, in the name and behalf of this State, to cede to the United States exclusive jurisdiction over the land or lands so purchased or acquired and sought to be ceded to the United States, to hold, use, occupy, own, possess and exercise said juris-

diction over the same, for the purposes aforesaid: Provided always, the consent aforesaid is hereby given, and the cession aforesaid is to be granted and made as aforesaid upon the express condition that this State shall retain a concurrent jurisdiction with the United States, in and over the land or lands so to be ceded, and every portion thereof, so far, that all process, civil or criminal, issuing under the authority of this State, or any of the court or judicial officers thereof, may be executed by the proper officers thereof, upon any person or persons amenable to the same, within the limits and extents of the land or lands so ceded, in like manner or to like effect as if this act had never been passed—saving, however, to the United States, security to their property within said limits and extent, an exemption of the same and of said land or lands from any taxation, under the authority of this State, whilst the same shall continue to be owned, held, used and occupied by the United States for the purposes above expressed and intended, and not otherwise.

Sec. 5. Be it further enacted, That this act be in force and take effect from and after its passage.

Approved, December 19, 1849.

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## CHAPTER XVII.

### An Act creating the County of Tarrant.

Sec. 1. Be it enacted by the Legislature of the State of Texas, That all that territory comprised within the limits hereinafter prescribed, shall form and compose the county of Tarrant, to wit: beginning at the south-west corner of Dallas county; thence, running north with the Dallas county line, to the north-west corner of Dallas county; thence, due west thirty miles; thence, due south thirty miles; thence, east thirty miles, to the place of beginning—subject, however, to bear with the south-west and north-west corners of Dallas county, should said corners of Dallas county be found to be incorrect, upon a final re-survey of said county of Dallas.

Sec. 2. Be it further enacted, That the first Monday in August, A. D. 1850, be set apart as the day for electing county officers for said county of Tarrant; and that returns of said election shall be made to, and opened by, Col. M. T. Johnson, within the time prescribed by law.

Sec. 3. Be it further enacted, That it shall be the duty of the Chief Justice of Dallas county to divide the same into convenient precincts, and also to appoint some suitable person, by authority given under his hand and official seal, to hold said election in accordance with the existing laws of the State of Texas, who shall, in accordance to the powers in him vested, qualify the Chief Justice elect, and give him a certificate of his election, with all of the returns of said election; and thereupon, the Chief Justice elect shall proceed to issue certificates to the proper officers elect in and for said county; and who, after being duly sworn, shall proceed to take charge of the offices to which they are elected respectively.

Sec. 4. Be it further enacted, That so soon as said county of Tarrant shall be organized, the Chief Justice shall employ some competent surveyor, who shall run to and ascertain the centre of said county; and all those who may see proper, may offer, for the use and benefit of said county, any amount of lands, moneys, or other property they may think fit; and said lands so donated, shall be within five miles of the centre of said county; which donations, should the place or places put in nomination fail to be the county seat of said county, shall be null and void; but which donations for the place established as said county seat shall be valid and obligatory, and shall be appropriated to the erection of a jail, courthouse, and other public buildings, for the use of said county: and all those offering donations as above stated, shall give bond, with good and sufficient security, to the Chief Justice of said county, at least in double the amount of the donation thus offered, to make a good and sufficient title to such lands, money, or other property so donated; and on failure to comply with this requisition, the Chief Justice shall bring suit in the name and on behalf of said county, for such failure, and receive [recover] damages on said bond, before any court having competent jurisdiction of the same.

Sec. 5. Be it further enacted, That Vincent J. Hutton, Walling R. Rodgers, ——— Little, Col. M. T. Johnson, and Sanders Elliott, or a majority of them, be, and they are hereby appointed commissioners, whose duty it shall be to lay off said county seat, or a part thereof, into town lots of a convenient shape; and after having advertised the same for sale, at least two months previous to the day of sale, shall proceed to sell the same to the highest bidder, or a part thereof, as they may deem most expedient, on a credit of twelve months, taking bond and approved security of the purchasers for the payment of the same; which notes thus taken may be disposed of at the option of the county court, and used in

payment for the erection of public buildings, and other expenses incident to the same.

Sec. 6. Be it further enacted, That should there be more than two places put in nomination for the said county seat, the Chief Justice, upon opening the polls, and no one having received a majority of the votes polled, shall immediately put in nomination the two places receiving the highest number of votes, and advertise a new election between the two places having received the highest number of votes, in at least four public places in said county, for at least ten days; and the place receiving the highest number of votes shall be the place established as the county seat of said county of Tarrant, and shall be called Birdville.

Approved, December 20, 1849.

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## CHAPTER XVIII.

### An Act creating the County of Ellis.

Section 1. Be it enacted by the Legislature of the State of Texas, That all that portion of the county of Navarro comprised within the following limits, to wit: beginning on the west bank of Trinity river, at a point one mile north of Robert H. Porter's house; thence, in a straight line to Chambers' creek, at a point immediately opposite the mouth of Mill creek; thence, south sixty degrees west, to a point thirty-seven miles, on a straight line, from the place of beginning; thence, north thirty degrees east, to a point directly west of the south-west corner of Dallas county; thence, east to said corner of Dallas county; thence, with the south boundary line of said Dallas county, to Trinity river; thence, down said river, with its meanders, to the place of beginning, shall be, and the same is hereby created a separate county, and called the county of Ellis.

Sec. 2. Be it further enacted, That the citizens of said county of Ellis shall be entitled to all the privileges, rights, and immunities, enjoyed by the citizens of other counties of this State, except the right of representation, which shall remain as heretofore.

Sec. 3. Be it further enacted, That T. Flarherty, B. F. Hawkins, Norman Whittenburg, ——— Younger, William Downing, James E. Patton, James Jackson, and William S. Mitchell, be and they, or a majority of them, are hereby constituted a board of commissioners, with power and authority to ascertain the centre

of said county, and nominate any three places within five miles of the centre so ascertained, for the county seat of said county, and receive donations, in the name of the county, for the use and purpose of erecting public buildings, &c., in said county seat.

Sec. 4. Be it further enacted, That the commissioners, after having found the centre, and designated the places to be run for the county seat of said county of Ellis, shall cause an election to be held at the several precincts in said county, for the purpose aforesaid; and all persons having a right to vote for representatives in the State Legislature, shall be entitled to vote for the county seat; and the place receiving a majority of the whole vote, shall be the county seat of said county, and called Waxahachie.

Sec. 5. Be it further enacted, That the persons appointed by said commissioners to hold said election, shall be governed by the laws governing elections generally, and shall make their returns to the said commissioners on the tenth day after the election, to the place designated in the notice given to them by the commissioners; which notice shall be given at least twenty days previous to the day of election.

Sec. 6. Be it further enacted, That should there not be a majority of votes for any one place, the commissioners aforesaid shall proceed to hold a second election as before, in which the two places receiving the highest number of votes in the first election shall be nominated; and the place which receives the highest number of the whole vote polled, shall be the county seat of said county of Ellis; and the commissioners are required to report the same, together with all their proceedings, to the county court; as soon as there is a county court organized in said county.

Sec. 7. Be it further enacted, That this act take effect, and be in force, from and after its passage.

Approved, December 20, 1849.

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## CHAPTER XIX.

### An Act for the relief of the Citizens of Jasper County.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be authorized and required to cause all field-notes to be copied, which have been returned from the land district composed of the counties of Jasper and Newton; which copies shall be certified

by said Commissioner, under the seal of the General Land Office, and transmitted to the district surveyor of said district.

Sec. 2. Be it further enacted, That all field-notes hereafter returned, which were certified by the district surveyor anterior to the twenty eighth October last, shall be copied, authenticated and transmitted as provided in the first section of this act.

Sec. 3. Be it further enacted, That the copies of field-notes transmitted as required in the first and second sections of this act, shall be a record in said district surveyor's office, and shall have full force and effect as such.

Sec. 4. Be it further enacted, That the Commissioner of the General Land Office shall also cause the map of said district of Jasper and Newton to be copied and transmitted as aforesaid, to the district surveyor of said district.

Sec. 5. Be it further enacted, That surveying, and all other business connected with the offices of district or deputy surveyor within said district of Jasper, be, and the same are hereby suspended, until the copies and maps required by this act to be transmitted to the district surveyor shall be received by him.

Sec. 6. Be it further enacted, That the Commissioner of the General Land Office is hereby authorized to employ an additional clerk, for the purpose of transcribing said records, at the same pay as other clerks in the Land Office.

Sec. 7. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, December 20, 1849.

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## CHAPTER XX.

An Act to amend the Fifty-fifth Section of the "Act to organize Justices' Courts, and to define the powers and jurisdiction of the same," approved March 20, 1848.

Section 1. Be it enacted by the Legislature of the State of Texas, That the fifty-fifth section of the above recited act be, and the same is hereby so amended as to read as follows: Section 55. That hereafter no Justice of the Peace shall issue an execution in any case, where the judgment may be for money, except in prosecutions for criminal offences, before the eleventh day after the day on which judgment was rendered; unless the party in whose favor judgment was given, shall have filed an affidavit with the Justice, setting forth that he believes the party



against whom the judgment was rendered will, within ten days, sell or otherwise dispose of, or remove his, her or their property out of the county; whereupon it shall be the duty of said Justice to issue an execution forthwith.

Approved, December 20, 1849.

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## CHAPTER XXI.

An Act providing payment for the forage and subsistence of the company of Mounted Volunteers mustered into the service of this State on the 10th June, 1849, by Col. H. L. Kinney.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Comptroller of this State be, and he is hereby required to audit the claims of C. G. Bryant, acting Commissary of the post of Corpus Christi, for the subsistence, forage, transportation, medicine, camp equipage, &c., &c., of the company of Texas mounted volunteers mustered into the service of this State by Col. H. L. Kinney, on the 10th June, 1849; and that he be required to draw on the Treasurer of this State for the same, in favor of the respective creditors whose claims may be found by him to be just and equitable.

Sec. 2. Be it further enacted, That the sum of six thousand one hundred and fourteen dollars and seventy-six cents be, and the same is hereby appropriated out of any money in the Treasury not otherwise appropriated, for the payment of the same.

Sec. 3. Be it further enacted, That this act be in force and take effect from and after its passage.

Approved, December 26, 1849.

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## CHAPTER XXII.

An Act to provide for the permanent location of the Seat of Justice of Cass County.

Section 1. Be it enacted by the Legislature of the State of Texas. That it shall be the duty of the Chief Justice of Cass county, and he is hereby required to order an Election to be held at each of the several precincts in said county, on the first Monday in March, in the year eighteen hundred and fifty, by the

qualified electors of said county for the purpose of electing a Seat of Justice for said county.

Sec. 2. Be it further enacted, That it shall be the duty of said Chief Justice to advertise the said election in each election precinct of said county for ten days next preceding the day therein fixed for holding such election, specifying distinctly, in said advertisement or notice the purpose for which said election is to be held.

Sec. 3. Be it further enacted, That the town of Jefferson and the town of Linden, be, and they are hereby nominated for the Seat of Justice of said county to be voted for at said election, and the place receiving a majority of all the votes polled, shall be the Seat of Justice for said county of Cass.

Sec. 4. Be it further enacted, That the County Court shall as soon as the result of said election may be ascertained, proceed to sell, upon such terms as they may deem proper, any town lots, or other property which may have been heretofore donated to said county at the place which may be chosen under the provisions of this act for the county seat of said county; and it shall furthermore be the duty of said County Court, to apply the proceeds of such sale to the erection of county buildings as speedily as practicable.

Sec. 5. Be it further enacted, That all the officers of said county who are required by law to keep their offices at the seat of justice, are hereby required to keep their offices at the place which may be selected as the seat of justice under this act, and all courts in and for said county shall be held at that place, except that of the Justices of the Peace in their respective precincts: Provided, however, that the next Spring Term of the District Court for the county of Cass, shall be held as heretofore, at the town of Jefferson.

Sec. 6. Be it further enacted, That the County Court is hereby authorized and empowered to reconvey to the donor or donors, all town lots or other property heretofore donated to the county at the town of Jefferson, provided the said town of Jefferson is not chosen for the county seat under the provisions of this act, and the provisions of this section are hereby extended to all property which may have been heretofore donated to the county at the town of Linden, and further provided, that if any of the above town lots or property shall have been sold by said county, the purchaser or purchasers of the same shall have the privilege of rescinding said purchase, and the County Court may reconvey such property to the donor or donors, as though such sale had never been made, and if the purchaser of said town property should

choose not to rescind and set the said [property] back to the county, then the said County Court may reconvey the proceeds arising from such lots as may be retained to the original donor or donors, after paying all the expenses which have originated in the sale of said town lots by the said county.

Sec. 7. Be it further enacted, That the election contemplated under this act shall be held, and the returns made in accordance with the laws of this State regulating elections.

Sec. 8. Be it further enacted, That all laws and parts of laws conflicting with the terms of this act, be, and the same are hereby repealed, and that this act take effect and be in force from and after its passage.

Approved, December 27, 1849.

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### CHAPTER XXIII.

An Act to authorize any two County Commissioners to perform the duties of Chief Justice of the County Court when said office is vacant, or when said officer is absent from the County, or is unable or disqualified to act.

Section 1. Be it enacted by the Legislature of the State of Texas, That whenever the office of Chief Justice of any County Court in this State is vacant, or whenever the Chief Justice of any County Court in this State shall be absent from the county, or unable to discharge the duties of his office, or shall be disqualified from attending to the duties of his office, by reason of interest, or from any other cause, then any two of the County Commissioners of such County shall have power to do and perform all the duties of Chief Justice of the County Court.

Sec. 2. Be it further enacted, That this act shall take effect and be in force from and after its passage.

Approved, December 29, 1849.

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### CHAPTER XXIV.

An Act defining the boundaries of the County of Santa Fe.

Section 1. Be it enacted by the Legislature of the State of Texas. That the boundaries of the County of Santa Fé are hereby defined and established as follows, to wit: Beginning at

the Rio Grande, at the north-west corner of the county of Worth, running up the principal stream of said Rio Grande to its source; thence due north to the forty-second degree of north latitude: thence along the boundary line as defined in the treaty between the United States and Spain, to the point where the hundredth degree of longitude west of Greenwich intersects Red River: thence up the principal stream of said Red River to its source: thence in a direct line to the north-east corner of the county of Worth: thence with the north line of said county to the place of beginning.

Sec. 2. Be it further enacted, That this act shall take effect and be in force from and after its passage.

Approved, December 31, 1849.

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## CHAPTER XXV.

An Act making an Appropriation to defray the expense incurred in publishing the proposed Amendment to the Constitution.

Section 1. Be it enacted by the Legislature of the State of Texas, That a sufficient sum of money is hereby appropriated to defray the expense incurred in publishing the proposed amendment to the Constitution, allowing fifty dollars to each and every editor who published the same in accordance with law; and the certificate of the Secretary of State of that fact, shall be a sufficient voucher for the Comptroller to order the payment of the same.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, December 31, 1849.

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## CHAPTER XXVI.

Joint Resolution granting further time for the payment of Government dues and the return of Field Notes.

Section 1. Be it Resolved by the Legislature of the State of Texas, That further time is given until the first day of January, one thousand eight hundred and fifty two for the payment of .

Government dues, and the return of field notes to the General Land Office, on all lands surveyed in pursuance of law, and that the treasury notes of the Republic of Texas be received in payment of land patents and the government dues on land as heretofore. And provided further, that gold or silver be received in payment for government dues, and land patents, at the rate of one dollar in gold or silver to five in treasury notes of the government of the Republic of Texas: Provided however, that in no case shall a patent to any land issue until all the government dues thereon shall have been paid.

Sec. 2. Be it further resolved, That this Joint Resolution take effect from and after its passage.

Approved, December 31, 1849.

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## CHAPTER XXVII.

Joint Resolution appropriating Four Thousand Dollars for the compensation of the Assessors of direct taxes, for taking the enumeration of the inhabitants of the State, for the year 1848.

Section 1. Be it resolved by the Legislature of the State of Texas, That the sum of four thousand dollars be, and the same is hereby appropriated for the payment of Assessors and Collectors of direct taxes, for having discharged the duty of taking the enumeration of the inhabitants of this State, for the year eighteen hundred and forty-eight; and the certificate of the Secretary of State, that the return has been duly made from any county, and setting forth the number and description of the inhabitants thereof, in compliance with the requisition of an act entitled "an act to provide for the enumeration of the inhabitants of the State of Texas, for the year 1848," approved March 20, 1848, shall be a sufficient voucher for the proper officer to audit the same, in accordance to the provisions of the above recited act.

Sec. 2. Be it further resolved, That this Joint Resolution take effect from and after its passage.

Approved, December 31, 1849.

## CHAPTER XXVIII.

An Act, to establish the Eleventh Judicial District of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That the following named counties shall compose the Eleventh Judicial District of the State of Texas, to wit: Presidio, El Paso, Worth and Santa Fe.

Sec. 2. Be it further enacted, That an act to establish the Eleventh Judicial District of the State of Texas, approved March 15th, 1848, be and the same is hereby repealed.

Sec. 3. Be it further enacted, That this act shall take effect and be in force from and after its passage.

Approved, January 1, 1850.

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CHAPTER XXIX.

An Act creating the counties of Presidio, El Paso and Worth.

Section 1. Be it enacted by the Legislature of the State of Texas, That all the territory included within the following boundaries, to wit: beginning at the junction of the Rio Pecos with the Rio Grande, thence up the Rio Grande, to Ford and Neighbors' trail, at the point where said trail strikes said River, as defined by a map compiled by Robert Creuzbaur, date of 1849; thence north east to the Rio Pecos, thence down said stream to the place of beginning, is hereby created a county, to be called the county of Presidio.

Sec. 2. Be it further enacted, That the seat of justice of said county, shall be on the Rio Grande, at Fort Leaton, until otherwise provided by law.

Sec. 3. Be it further enacted, That all the territory included in the following boundaries, to wit: beginning on the Rio Grande at the north-west corner of the county of Presidio, thence up said river to a point, twenty miles above the town of San Diego; thence due east to the Rio Pecos, thence down said stream to the north-east corner of the county of Presidio, thence south-west with the upper boundary line of said county of Presidio to the place of beginning, is hereby created a county, to be called the county of El Paso.

Sec. 4. Be it further enacted, That the seat of justice of said

county of El Paso, shall be on the Rio Grande opposite the town of El Paso, until otherwise provided by law.

Sec. 5. Be it further enacted, That all the territory included within the following boundaries, to wit: beginning on the Rio Grande at the north-west corner of the county of El Paso, thence up said river to a point, twenty miles above the town of Sabine; thence due east to the eastern branch of the Rio Pecos; thence down said stream to the north-east corner of the county of El Paso; thence with the north boundary line of said county of El Paso to the place of beginning, is hereby created a county, to be called the county of Worth.

Sec. 6. Be it further enacted, That the seat of justice of said county of Worth, shall be and is hereby established at the town of Valverde, until otherwise provided by law.

Sec. 7. Be it further enacted, That the inhabitants residing within said several described limits, shall be in each of said several counties entitled to the same officers and courts, as other counties of this State.

Sec. 8. Be it further enacted, That this act shall take effect and be in force from and after its passage.

Approved, January 3, 1850.

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## CHAPTER XXX.

Joint Resolution authorizing the procurement of a Slab of native Marble of the required dimensions, to be placed in the National Monument being built in the City of Washington.

Section 1. Be it resolved by the Legislature of the State of Texas, That his Excellency, the Governor, is hereby authorized and required to procure as soon as practicable, a slab, of the required dimensions, of native marble, granite or some other durable rock, with a five pointed star, and the word Texas cut thereon; which, if possible, shall be taken from the walls of the Alamo; and have the same transmitted by the safest route to Washington, directed to the Texas delegation in Congress, to be presented by said delegation to the National Washington Monument Committee, in the name of the State of Texas, for the purpose of being placed in said Monument, occupying such place as has been or may be provided for the same.

Sec. 2. Be it further resolved, That the sum of three hundred dollars be, and the same is hereby set apart, out of any

money in the treasury, not otherwise appropriated, to defray the expense of carrying out the provisions of this Joint Resolution; and that this resolution take effect and be in force from and after its passage.

Approved, January 3, 1850.

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## CHAPTER XXXI.

An Act to provide for the Civil Organization of the Counties of Presidio, El Paso, Worth, and Santa Fe.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Governor shall nominate and, by and with the advice and consent of the Senate, appoint one commissioner, whose duty it shall be to organize the counties of Presidio, El Paso, Worth, and Santa Fé.

Sec. 2. Be it further enacted, That said commissioner shall have power, and it is hereby made his duty, to lay off each of said counties into convenient justices and election precincts, and to have the same recorded in the office of the county clerk, when elected; to order an election of all county and precinct officers; to appoint and administer the appropriate oath to the presiding officers, requiring them to conduct said election according to "An Act regulating Elections;" to receive the returns of said elections and declare the result, and make returns thereof to the Secretary of State.

Sec. 3. Be it further enacted, That after said commissioner shall have estimated and ascertained the result of said several elections, or either of them, he shall immediately issue certificates of election to the several officers elect, and administer to each the oath of office; and said officers may, by giving the bonds required by law, thereupon enter upon the discharge of the duties of their several offices, and continue to exercise the same until the next regular election for county officers throughout the State; and the oath of said officers, subscribed to by them, shall accompany the returns of said commissioner.

Sec. 4. Be it further enacted, That said commissioner shall receive, for the performance of the duties required by this act, the sum of five hundred and fifty dollars; and the further sum of three dollars for every thirty miles travel in going to and returning from said counties; and a sufficient amount of money is hereby appropriated for that purpose.



Sec. 5. Be it further enacted, That when the returns of said elections of said counties, or of such of them as shall be organized by said commissioner, shall be made to the Secretary of State, it shall be the duty of the Comptroller of Public Accounts, upon the certificate of the Secretary of State that such returns have been deposited by said commissioner in his office, to issue a draft upon the Treasurer of the State, in favor of said commissioner, for the amount of the pay allowed by this act.

Sec. 6. Be it further enacted, That this act shall take effect, and be in force, from and after its passage.

Approved, January 4, 1850.

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## CHAPTER XXXII.

An Act relative to the payment of certain Volunteer Companies for services rendered on the Western Frontier of the State of Texas.

Whereas, in the opinion of his Excellency, the Governor of this State, emergencies have existed which required the services of mounted volunteers on our border country; and whereas, to meet said emergencies, the Governor has called into service from time to time the following companies, commanded respectively by Captains Ben. F. Hill, J. M. Smith, Jacob Roberts, John S. Sutton, Sharply P. Ross, Henry E. McCulloch, Isaac W. Johnson, and Charles Blackwell; and whereas, the said companies promptly responded to the calls above referred to, and by their zeal and activity, answered the ends for which they were called, in stopping the further progress of murder and bloodshed by the ruthless savages who infested our frontier, and whose acts of violence and barbarity are now too fresh in the memory of every Texian to need recapitulation; and whereas, the services here alluded to, seem not to be recognized by the Government of the United States, which leaves the officers and men comprised in said companies totally without remedy to pay for the meritorious services rendered the State by them as aforesaid; and believing that said companies have a right to look to the Legislature of the State for relief, and believing their claim for pay to be just and meritorious, and that the United States Government will not hesitate to reimburse the State the amount hereby assumed; therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That the officers, non-commissioned officers, musicians and privates of said companies are entitled to the same pay, mileage and emoluments which they would have received had they been called into service by the United States Government, according to the date of said service on file in the office of the Adjutant-General of the State.

Sec. 2. Be it further resolved, That the State of Texas assume, and will pay to the officers, non-commissioned officers, musicians and privates, or their heirs and legal representatives, the true amounts due them respectively, for the services rendered the State by them as aforesaid, as well as the foraging and subsisting of said companies, or so many of the same as have not already been paid.

Sec. 3. Be it further resolved, That the Governor is hereby authorized and required to appoint some suitable person or agent of the State, to collect together all the muster rolls, pay rolls, accounts, vouchers and other evidences of services rendered, and expenditures incurred, by any and all persons of this State for the protection of the frontier from Indian depredations, since the annexation of Texas to the American Union, which have not heretofore been liquidated by the General Government.

Sec. 4. Be it further resolved, That said agent shall make out complete and correct duplicate muster and pay rolls of all and each of said companies; and also, duplicate accounts of all the expenses incurred, whether by the State or citizens thereof, for the subsistence and maintenance of said forces, which have been raised for protecting the State from Indian invasion and depredations, exhibiting the authority for the same in each case; whether the troops, as raised, were mustered into the service of the United States or the State of Texas: The whole in the form required for liquidation by the laws of the United States and the regulations of the War Department, one copy of each of which he shall deposit in the Adjutant-General's office in this State, and the other retain himself, for the purposes hereinafter set forth.

Sec. 5. Be it further resolved, That said agent shall proceed with such rolls, accounts, vouchers and other evidence of services rendered and expenses incurred, fully made out and properly authenticated, in accordance with the United States army regulations, to the City of Washington, and present them to the proper officers of the Government for settlement, and take such advice, and adopt such measures, in conjunction with our Sena-

tors and Representatives in Congress, as will secure the prompt payment of said claims.

Sec. 6. Be it further resolved, That said agent shall receive as compensation for the services required of him, five per cent. on the amount which he may procure to be paid as provided in the fifth section: Provided, that said compensation of five per cent. be deducted from, and paid out of the amount so obtained from the United States Government; And moreover provided, that the sum of fifteen hundred dollars be, and the same is hereby appropriated out of any money in the State Treasury not otherwise or previously appropriated, to defray the expenses of said agent in discharging the duties herein assigned him; which amount of fifteen hundred dollars shall, in the event of a collection of the demands of the State, against the United States Government, be refunded by him, the said agent, in the manner hereinafter provided, to the State, out of the per centage allowed him by the provisions of this resolution.

Sec. 7. Be it further resolved, That it shall be the duty of said agent, in the event he obtains from the United States Government the amount claimed by the State, or any portion thereof, to proceed forthwith to the seat of government of the State with the same, and make a deposit thereof with the State Treasurer, in the same manner that other public moneys are paid into said Treasury, and on the same receipts and vouchers.

Sec. 8. Be it further resolved, That it shall be made the duty of the Governor, and he is hereby required to cause said agent, before entering on his duties, to make and execute to the Governor of the State of Texas, and his successors in office, a good and sufficient bond, with two or more satisfactory and solvent securities, conditioned for the well and faithful performance of all the duties required of him, which shall not be void on the first recovery, but liable to be sued on from time to time by the party or parties interested, until the whole amount thereof is recovered.

Sec. 9. Be it further resolved, That it shall be the duty of the Treasurer of the State to disburse the moneys so deposited by said agent to him, upon the application of the parties entitled to the same, their heirs or legal representatives, assignees or attorneys in fact, upon their producing evidence of their right to the same, from the Adjutant-General of the State, that the corresponding service was performed by the party claiming, or in right of whom it is made.

Sec. 10. Be it further resolved, That the accompanying memorial of the Legislature of the State of Texas to the Honorable the Senate and House of Representatives of the Congress of

the United States, upon the subject of expenses incurred by the State in providing a military defence upon the frontier in the years 1848 and 1849, is hereby approved and adopted, together with the accompanying report of the Adjutant-General of the State, setting forth the time the several companies were mustered into service, and the time of their discharge from the same, with the estimated amounts due each company respectively.

Sec. 11. Be it further resolved, That the Clerk of the House of Representatives of the State of Texas be, and he is hereby required to make out a complete and certified copy of the report of the chairman of the Military committee, to whom was referred so much [of the Governor's message] as related to the payment of the companies of mounted volunteers, recently mustered into service for frontier protection, as well as this joint resolution, together with the memorial and report of the Adjutant-General above referred to; and it shall be his duty to deliver the same to his Excellency, the Governor of the State of Texas, to be by him forwarded, as contemplated in this joint resolution, to the Congress of the United States, with such directions, statements and views as to him may seem right and proper.

Sec. 12. Be it further resolved, That these joint resolutions take effect and be in force from and after their passage.

Approved, January 7, 1850.

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### CHAPTER XXXIII.

Joint Resolution providing for the mutual surrender of persons therein mentioned by the governments of the United States and Mexico.

Whereas, the preservation of peace, friendship, good feeling, and the mutual interests of the inhabitants on both sides of the Rio Grande, requires that there should be some arrangement entered into, between the governments of the United States and Mexico, for the mutual surrender on either side, of all criminals, robbers, persons held in bondage, or fugitives from justice; Therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That our Senators be instructed, and Representatives in the Congress of the United States be requested to bring the subject of this preamble to the notice of the government of the

United States, with the request that measures be adopted to carry it into effect.

Sec. 2. Be it further resolved, That the Governor of this State be instructed to transmit a copy of this Preamble and Joint Resolution to the delegation from Texas in the Congress of the United States.

Approved, January 8, 1850.

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## CHAPTER XXXIV.

An Act to authorize and require the Commissioner of the General Land Office to issue Patents on land claims, located in three surveys, in certain cases.

Section 1. Be it enacted by the Legislature of the State of Texas, That in all cases where two surveys have been heretofore, or may hereafter be made, by virtue of any head-right certificate, bounty warrant or any other legal evidence of claim, to land, and it shall appear by the district or county maps, in the General Land Office, or by a plot or sketch giving a connection of the adjacent surveys, certified by the district surveyor and returned to said office, that all the vacant land, at the place where the second survey was made, has been included therein, without having completed the quantity to which the party was entitled, by the unlocated balance of the claim, the owner or holder thereof shall have a right to a third survey to satisfy the unsurveyed portion of the claim.

Sec. 2. Be it further enacted, That the Commissioner of the General Land Office is hereby authorized and required, to issue patents on claims located in three surveys, as set forth in the first section of this act, as on any other legal surveys.

Sec. 3. Be it further enacted, That where two surveys have heretofore been made, by virtue of any legal claim to land, and the second survey shall have been patented, if it shall appear as pointed out in the first section of this act, that the first survey is so circumscribed by other surveys, that no more vacant land can be obtained in that place, and the two surveys already made do not satisfy the claim, the owner, or holder thereof, shall have a right to patents, on the two surveys already made, as in other cases, and a certificate for the unlocated balance of his claim, which

certificate shall be sufficient authority, for any legally authorized surveyor, to survey the same.

Sec. 4. Be it further enacted, That all laws contrary to the provisions of this act, be, and they are hereby repealed, and that this act shall take effect, and be in force from and after its passage.

Approved, January 10, 1850.

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## CHAPTER XXXVI.

### An Act to locate the Seat of Justice of Dallas County.

Section 1. Be it enacted by the Legislature of the State of Texas, That the day of general election for county officers in the year one thousand eight hundred and fifty, be, and is hereby fixed as the day for holding an election in the county of Dallas, for the selection of a suitable place for the permanent location of the seat of justice of said county: provided the north boundary of said county shall be established by that time; and if not, directly after it is established.

Sec. 2. That the Chief Justice of said county shall give public notice of the same in writing, posted up at the different precincts at least ten days before the election.

Sec. 3. That he shall receive and make public, in writing as aforesaid, such propositions as may be offered as inducements in favor of the selection of places recommended as suitable locations for the seat of justice of said county.

Sec. 4. That the propositions submitted, as aforesaid, shall be in the shape of penal bonds, and may be collected at the suit of said Chief Justice or his successors in office, in the District Court, for the use of the county, and the proceeds applied to the erection of county buildings for said county.

Sec. 5. That the election for said county seat shall be conducted in conformity with the existing laws regulating elections at the time thereof, and the returns made in ten days, to the Chief Justice of said county; who shall declare the place receiving the highest or greatest number of votes, to be the legal seat of Justice of said county: provided any one place shall have received a majority of all the votes polled at said election; but in case no one place shall have received a majority as aforesaid, then the Chief justice shall immediately order another election, giving ten days' notice thereof, posted up as before stated, putting in nomi-

nation the two places that received the greatest number of votes; which said election shall be conducted and returns made as heretofore provided: and the place then receiving the greatest number of votes, shall be declared to be the county seat of justice of said county: provided it does not exceed five miles from the centre of said county.

Sec. 6. That Rev. James Smith, Amon McComas, R. J. West, W. J. Walker and Micajah Goodwin, of whom three may constitute a quorum to do business, shall be, and they are hereby appointed commissioners to lay out, sell and transfer lots, if necessary, and to superintend the carrying out such propositions as may have been made in favor of the location selected, and report to the Chief Justice whether or not the bonds containing propositions in favor of said place, have been strictly complied with by the makers and obligors of the same.

Sec. 7. That as soon as the county buildings are received by said commissioners, and reported to the Chief Justice, the clerks of the district and county courts, sheriff and county surveyor shall remove their offices and papers to the place selected for said county seat; and all courts shall be held thereafter at the said county seat.

Sec. 8. That all laws and parts of laws conflicting with this act be, and the same are hereby, repealed; and that this act take effect, and be in force, from and after its passage.

Approved, Jan. 11, 1850.

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## CHAPTER XXXVI.

An Act to authorize the Governor to employ Counsel to represent the State in certain cases.

Section 1. Be it enacted by the Legislature of the State of Texas, That whenever a vacancy may occur in the office of Attorney General, by death, resignation or otherwise, it shall be the duty of the Governor, whenever the interest of the State may require it, to appoint counsel to represent the State, which counsel so appointed, shall hold his appointment until an Attorney General can be elected and qualified, and no longer, and shall be entitled to receive as compensation for his services at the same rate as is by law allowed to the Attorney General.

Sec. 2. Be it further enacted, That this act take effect, from and after its passage.

Approved, January 15, 1850.

## CHAPTER XXXVII.

Joint Resolution instructing our Representatives in Congress to use their efforts to obtain an appropriation for the improvement of the navigation on our south-western coast.

Whereas, the rapidly increasing commerce, and the exposed situation of our south-western coast, demand that some improvement should be effected in the navigation of that portion of our coast, for the protection of property, and preservation of life; therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That our Senators in Congress be instructed, and our Representatives requested to use their efforts to obtain an appropriation for the erection of a light-house, or placing a light-boat at Brazos Santiago, and the mouth of the Rio Grande.

Sec. 2. Be it further resolved, That the Governor of this State be, and he is hereby required to transmit a copy of this Joint Resolution to each of our Senators and Representatives in Congress.

Approved, January 15, 1850.

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CHAPTER XXXVIII.

Joint Resolution to procure the passage of a law by the Congress of the United States, granting pensions to certain persons who suffered in the Texas Revolution, or to their indigent widows and children.

Whereas, there is a meritorious class of our citizens, who are fast passing away, and who, by their intelligence, energy, integrity and valor redeemed Texas from a wilderness, fought her battles and achieved her independence; and whereas, many of them have been maimed for life, and others have fallen a sacrifice to the cause of liberty and their country, and left their widows and orphans nothing, save a claim on the justice and humanity of their country to shield them from distress in the hour of need; and whereas, the separate national independence of Texas, by the voice of her people, has been abandoned, and her lone star added to the emblem of the United States; and whereas, by the terms of annexation, a princely



and increasing revenue has been yielded up in perpetuity to the government of the United States, in the shape of a tax on all importations consumed by the people of Texas, and believing that the United States is, and should be as just and generous as she is powerful. While our sister States have derived, and will continue to derive incalculable advantages from the annexation of Texas, that the feeling of justice and liberality will prompt the government of the United States to extend the hand of relief to those who have, at the expense of their blood, redeemed a glorious country from a wilderness, and added it to the Union. The people of Texas, yielding a willing allegiance, are entitled to a generous protection; bearing a portion of the burdens, they are equally entitled to the benefits of the government. Believing that none have higher claims upon the government of the United States than those who have spent their lives, exhausted their means and shed their blood on the battle fields of Texas in the cause of freedom, therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That our Senators be, and they are hereby instructed, and our Representatives requested to procure the passage of a law by the Congress of the United States, granting pensions to those persons who were wounded in the service of Texas during her revolution, and to the indigent widows and children of those who were wounded and died afterwards, or were killed in her service during her said revolution, and to those who participated in the revolution of Texas, who are more than fifty years of age, placing them upon the pension roll, among the most favored class, and appointing pension agents for the State of Texas.

Sec. 2. Be it further resolved, That the Governor of this State cause a copy of this preamble and resolution to be forwarded to each of our Senators and Representatives in Congress for their information and instruction.

Sec. 3. Be it further resolved, That this joint resolution take effect and be in force from and after its passage.

Approved, January 15, 1850.

## CHAPTER XXXIX.

## An Act to prescribe the mode of Adoption.

Sec. 1. Be it enacted by the Legislature of the State of Texas, That any person wishing to adopt another as his or her legal heir, may do so by filing in the office of the clerk of the county court in which county he or she may reside, a statement in writing, by him or her signed and duly authenticated or acknowledged, as deeds are required to be, which statement shall recite in substance, that he or she adopts the person named therein as his or her legal heir, and the same shall be admitted to record in said office.

Sec. 2. Be it further enacted, That such statement in writing, signed and authenticated, or acknowledged and recorded as aforesaid, shall entitle the party so adopted to all the rights and privileges, both in law and equity, of a legal heir of the party so adopting him or her. Provided, however, that if the party adopting such person, have, at the time of such adoption, or shall thereafter have a child or children, begotten in lawful wedlock, such adopted child or children shall in no case inherit more than the one-fourth of the estate of the party adopting him or her, which can be disposed of by will.

Approved, January 16, 1850.

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CHAPTER XL.

## Amendment to the Constitution.

Sec. 1. Be it resolved by the Legislature of the State of Texas, That the Constitution of the State of Texas be so altered and amended, that the Judges of the Supreme Court, Judges of the District Courts, Attorney-General, District Attorneys, Comptroller of Public Accounts, Treasurer of the State, and the Commissioner of the General Land Office, shall, at the expiration of their respective terms of office, or in case a vacancy may occur, in either of them, by death, resignation, or otherwise, after this amendment takes effect, and thereafter, be elected by the qualified electors of the State, in the manner prescribed by law.

Sec. 2. Be it further resolved, That the election for District Judges and District Attorneys shall be confined to their respective Districts.

Approved, January 16, 1850.

CHAPTER XLI.

An Act to restore Lands sold for Taxes, and purchased by the State, to the former owners.

Sec. 1. Be it enacted by the Legislature of the State of Texas, That the State of Texas does hereby relinquish to the former owners of all lands which have been sold for taxes, and purchased by the State: Provided, that such former owner or owners will, on or before the first day of January, in the year eighteen hundred and fifty-one, pay to the Comptroller of the State the amount of tax due the State at the time of such sale, together with all taxes which would have accrued, had the party continued to own the lands to the time of such payment, together with eight per cent. per annum interest thereon, and one dollar to the Assessor or Sheriff who may have sold said land, which amount of one dollar the Comptroller shall place to the credit of the Assessor who may have sold said land as aforesaid, if still in office, and if the person who sold said land be not now in office, the Comptroller shall pay over said fee to the party entitled to the same, or to his heirs or legal representatives.

Sec. 2. Be it further enacted, That the receipt of the Comptroller shall be sufficient evidence to the owner or owners of such lands so sold for taxes, that the provisions of this act have been complied with.

Approved, January 16, 1850.

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CHAPTER XLII.

An Act making additional appropriations of Land for the purposes of Education.

Sec. 1. Be it enacted by the Legislature of the State of Texas, That each and every county in this State, which has been established and organised since the sixteenth day of February, in the year one thousand eight hundred and forty-six, or which may hereafter be established and organized by law, shall have surveyed and set apart four leagues of land for the purposes of Education, which locations and surveys may be made upon any vacant and unappropriated lands within the limits of the State.

Sec. 2. Be it further enacted, That the lands so donated,

shall be located and surveyed in conformity to an act entitled an act appropriating certain lands for the establishment of a general system of education, approved January 26th, 1839, and the provisions of the same shall apply to the lands when so located.

Sec. 3. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, January 16, 1850.

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## CHAPTER XLIII.

An Act to amend An Act regulating Attachments, approved March 11th, 1848.

Section 1. Be it enacted by the Legislature of the State of Texas, That the 19th section of "an act regulating attachments," approved March 11, 1848, shall be, and is amended, so that it shall hereafter read as follows, viz: Section 19. Be it further enacted, That where a judicial or original attachment has been issued, the plaintiff may apply to the officer who issued the same, for a writ of garnishment against any person supposed to be indebted to, or supposed to have any of the effects of the defendant, commanding the sheriff or other proper officer of the county where such person may reside, to summon him as garnishee, to appear before the District Court, or Justice of the Peace, where the attachment is returnable on the first day of the first term of the court, or on the return of the attachment, if returnable before a Justice of the Peace, then to answer upon oath, what he is indebted to the defendant, or what effects of the defendant he has in his possession, and had at the time of serving of the garnishment, and what credits and effects, there are of the defendant in the hands of any other person, and what person, to the best of his knowledge or belief; and it shall be lawful at any time after the answer of the garnishee shall have been filed, and after final judgment shall have been rendered against the defendant in attachment, for the court or Justice of the Peace, to enter up a judgment against such garnishee, for all sums of money acknowledged by him to be due to the defendant, and for all effects of the defendant, acknowledged to be in his possession, or so much thereof as may be sufficient to satisfy the judgment of the plaintiff and costs: or if the garnishee be a resident of the county where the original suit is brought, it shall be lawful for the court or Justice

of the Peace in like manner to enter up a judgment against such garnishee, for all sums of money that may be proved to be due from him to the defendant, and for all effects of the defendant proved to be in his possession, or so much thereof, as will be sufficient to satisfy the judgment of the plaintiff and costs: and if such garnishee shall fail, or refuse, to deliver to the proper officer of the court, all sums of money and effects, for which such judgment was entered against him or so much thereof as may be sufficient to satisfy the judgment of the plaintiff, and costs, when demanded by such officer, he shall make return to the court, or Justice of the Peace of such failure or refusal; whereupon it shall be the duty of the clerk or Justice of the Peace, to issue execution against such garnishee, in accordance with the terms of the judgment rendered against him.

Sec. 2. Be it further enacted, That the twentieth section of said act, shall be and is amended, so that it shall hereafter read as follows, viz: Section 20. Be it further enacted, That where any garnishee who is a resident of the county where the original suit is brought, shall be summoned in the manner aforesaid, and shall fail to answer on oath as directed by this act, before final judgment shall have been rendered against the defendant in attachment, it shall be lawful for the court or Justice of the Peace after calling the garnishee to render judgment against him, for such sum as judgment may have been rendered for against the defendant in attachment.

Sec. 3. Be it further enacted, That the twenty-fourth section of said act shall be, and is amended, so that it shall hereafter read as follows, viz: Section 24. Be it further enacted, That the plaintiff, wishing to controvert the garnishees answer, may do so, by making oath, that he believes the same to be incorrect, whereupon, if the garnishee resides in the county in which the original suit is brought, an issue shall be formed under the direction of the court, and tried as in other suits: but if the garnishee is a resident of any other county, the plaintiff may file a copy of the judgment in the original suit, together with a copy of said controverted answer and oath, in any court of the county, in which the garnishee resides, that has jurisdiction of an amount equal to that demanded in the original suit, when it shall be the duty of the Justice of the Peace, or the clerk of the court, in whose office such copies are filed, to docket the same as an original suit, and issue a citation against the garnishee, as in other suits: and upon the return of such citation served, an issue shall be formed under the direction of the court, or Justice of the Peace, as the case may be, and tried in like manner, as the

same might have been done in the court in which the original suit was brought, if the garnishee had been a resident of the county when such original suit was brought.

Sec. 4. Be it further enacted, That two other sections shall be and they are hereby added to said act, to read as follows, viz: Section 30. That when a garnishee resides in a county, other than that in which the original suit is brought if he shall fail to appear and answer on oath, in obedience to the writ of garnishment, it shall be lawful for the court, or Justice of the Peace, on motion to the plaintiff, to issue a commission to any officer authorized to take depositions in the county in which the garnishee resides, requiring him to cite said garnishee to come before him, and answer such garnishment under oath: and should said garnishee appear and answer, it shall be the duty of the officer receiving such commission to return the same together with [the] answers of the garnishee certified to under his hand and official seal, to the court or Justice from whence it issued: but should the garnishee fail, or refuse to appear and answer under oath, when so cited by the officer to whom any such commission shall have been sent, then such officer shall return such commission with the citation, and service endorsed thereon, together with a certificate of such failure, or refusal, attested by his hand and official seal, to the court or justice from whence such commission issued, whereupon, it shall be lawful for such court or justice, to proceed against such garnishee in like manner, as if he were a resident of the county, in which the original suit was brought, and had failed to appear and answer. Sec. 31. That in all cases, where a judicial attachment shall hereafter issue, if at any time before the trial, the defendant by himself, or by his attorney, shall appear and answer the suit, he may on motion, have said attachment set aside and vacated, and the property attached, released; but nothing in this thirty-first section, shall in any manner effect, or control the proceedings on original attachments.

Approved, January 16, 1850.

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#### CHAPTER XLIV.

An Act to apportion the Senators and Representatives of the Legislature among the several Counties of the State, according to the requirements of the Constitution.

Sec. 1. Be it enacted by the Legislature of the State of Texas, That the State shall be divided into twenty-six senato-

rial Districts, which shall severally be entitled to one Senator, and be formed as follows, to wit:—

- No. 1. Red River and Bowie.
  - No. 2. Fannin and Lamar.
  - No. 3. Cooke, Grayson, Denton, Collin and Dallas.
  - No. 4. Hopkins, Hunt, Kaufman and Van Zandt.
  - No. 5. Titus and Cass.
  - No. 6. Navarro, Henderson and Limestone.
  - No. 7. Cherokee and Anderson.
  - No. 8. Rusk and Smith.
  - No. 9. Harrison and Upshur.
  - No. 10. San Augustine, Sabine, Newton and Jasper.
  - No. 11. Houston, Nacogdoches and Angelina.
  - No. 12. Shelby and Panola.
  - No. 13. Polk, Tyler, Liberty and Jefferson.
  - No. 14. Milam, Robertson, Leon, Brazos, Williamson and Burleson.
  - No. 15. Montgomery, Walker and Grimes.
  - No. 16. Washington, Austin and Fort Bend.
  - No. 17. Harris.
  - No. 18. Galveston and Brazoria.
  - No. 19. Matagorda, Wharton, Colorado, Jackson, Calhoun and Victoria.
  - No. 20. Fayette, Bastrop and Caldwell.
  - No. 21. Travis, Hays and Gillespie.
  - No. 22. Bexar, Medina and Comal.
  - No. 23. Guadalupe, Gonzales, Lavaca, De Witt and Goliad.
  - No. 24. Cameron and Starr.
  - No. 25. Nueces, Webb, San Patricio and Refugio.
  - No. 26. Santa Fe, Presidio, El Paso and Worth.
- Sec. 2. Be it further enacted, That the Chief Justice of Red River, shall receive the returns and give the certificate of election to the Senator elect of the first Senatorial district.
- The Chief Justice of Lamar for the second district.
- |   |   |   |   |                                       |
|---|---|---|---|---------------------------------------|
| " | " | " | " | Grayson for the third district.       |
| " | " | " | " | Hopkins for the fourth district.      |
| " | " | " | " | Cass for the fifth district.          |
| " | " | " | " | Navarro for the sixth district.       |
| " | " | " | " | Cherokee for the seventh district.    |
| " | " | " | " | Rusk for the eighth district.         |
| " | " | " | " | Harrison for the ninth district.      |
| " | " | " | " | San Augustine for the tenth district. |
| " | " | " | " | Angelina for the eleventh district.   |
| " | " | " | " | Shelby for the twelfth district.      |

The Chief Justice of Liberty for the thirteenth district.

|   |   |   |   |   |
|---|---|---|---|---|
| " | " | " | " | Burleson for the fourteenth district.   |
| " | " | " | " | Montgomery for the fifteenth district.  |
| " | " | " | " | Austin for the sixteenth district.      |
| " | " | " | " | Harris for the seventeenth district.    |
| " | " | " | " | Galveston for the eighteenth district.  |
| " | " | " | " | Jackson for the nineteenth district.    |
| " | " | " | " | Bastrop for the twentieth district.     |
| " | " | " | " | Travis for the twenty-first district.   |
| " | " | " | " | Bexar for the twenty-second district.   |
| " | " | " | " | De Witt for the twenty-third district.  |
| " | " | " | " | Cameron for the twenty-fourth district. |
| " | " | " | " | Nueces for the twenty-fifth district.   |
| " | " | " | " | El Paso for the twenty-sixth district.  |

Sec. 3. Be it further enacted, That the State shall be divided into Representative Districts, and that the Counties and Representative Districts shall elect members of the House of Representatives as follows, to wit:

- No. 1. Jefferson and Tyler shall elect one Representative.
- No. 2. Liberty and Polk shall elect one Representative.
- No. 3. Jefferson, Tyler, Liberty and Polk shall elect one Representative.
- No. 4. Sabine, Jasper and Newton shall elect two Representatives.
- No. 5. Anderson and Houston shall elect two Representatives.
- No. 6. Nacogdoches and Angelina shall elect two Representatives.
- No. 7. San Augustine shall elect one Representative.
- No. 8. Shelby shall elect one Representative.
- No. 9. Shelby and San Augustine shall elect one Representative.
- No. 10. Rusk shall elect two Representatives.
- No. 11. Harrison and Upshur shall elect two Representatives.
- No. 12. Panola shall elect one Representative.
- No. 13. Cass shall elect one Representative.
- No. 14. Cass and Bowie shall elect one Representative.
- No. 15. Cherokee shall elect two Representatives.
- No. 16. Smith shall elect one Representative.
- No. 17. Henderson and Van Zandt shall elect one Representative.
- No. 18. Hunt and Kaufman shall elect one Representative.
- No. 19. Hopkins shall elect one Representative.
- No. 20. Titus shall elect one Representative.
- No. 21. Red River shall elect two Representatives.



- No. 22. Lamar shall elect two Representatives.
  - No. 23. Fannin shall elect one Representative.
  - No. 24. Fannin, Grayson and Cooke shall elect one Representative.
  - No. 25. Collin and Denton shall elect one Representative.
  - No. 26. Dallas shall elect one Representative.
  - No. 27. Navarro and Limestone shall elect one Representative.
  - No. 28. Leon, Robertson and Brazos shall elect one Representative.
  - No. 29. Milam and Williamson shall elect one Representative.
  - No. 30. Grimes shall elect one Representative.
  - No. 31. Walker shall elect one Representative.
  - No. 32. Montgomery shall elect one Representative.
  - No. 33. Harris shall elect three Representatives.
  - No. 34. Galveston shall elect two Representatives.
  - No. 35. Brazoria shall elect one Representative.
  - No. 36. Fort Bend and Colorado shall elect one Representative.
  - No. 37. Austin shall elect one Representative.
  - No. 38. Washington shall elect one Representative.
  - No. 39. Washington and Burleson shall elect one Representative.
  - No. 40. Fayette shall elect one Representative.
  - No. 41. Bastrop shall elect one Representative.
  - No. 42. Travis shall elect one Representative.
  - No. 43. Gillespie and Comal shall elect one Representative.
  - No. 44. Bexar and Medina shall elect two Representatives.
  - No. 45. Bexar, Medina, Comal and Gillespie shall elect one Representative.
  - No. 46. Guadalupe, Hays and Caldwell shall elect one Representative.
  - No. 47. Gonzales and Lavaca shall elect one Representative.
  - No. 48. Wharton, Matagorda and Jackson shall elect one Representative.
  - No. 49. Victoria and Calhoun shall elect one Representative.
  - No. 50. De Witt and Goliad shall elect one Representative.
  - No. 51. Cameron shall elect two Representatives.
  - No. 52. Starr and Cameron shall elect one Representative.
  - No. 53. Webb, Nueces, San Patricio and Refugio shall elect two Representatives.
  - No. 54. Presidio, El Paso and Worth shall elect one Representative.
  - No. 55. Santa Fe shall elect one Representative.
- Sec. 4. Be it further enacted, That in the several Representative Districts, composed of more counties than one, the Chief

Justices of the following named counties shall receive the returns, and give the certificate of election to the person receiving the highest number of votes for Representative:

|                      |                  |   |
|----------------------|------------------|---|
| The Chief Justice of | Jefferson county | for the first district.                               |
| "                    | "                | " " Liberty county for the second district.           |
| "                    | "                | " " Polk county for the third district.               |
| "                    | "                | " " Sabine county for the fourth district.            |
| "                    | "                | " " Anderson county for the fifth district.           |
| "                    | "                | " " Nacogdoches county for the sixth district.        |
| "                    | "                | " " San Augustine county for the ninth district.      |
| "                    | "                | " " Harrison county for the eleventh district.        |
| "                    | "                | " " Cass county for the fourteenth district.          |
| "                    | "                | " " Henderson county for the seventeenth district.    |
| "                    | "                | " " Hunt county for the eighteenth district.          |
| "                    | "                | " " Fannin county for the twenty-fourth district.     |
| "                    | "                | " " Collin county for the twenty-fifth district.      |
| "                    | "                | " " Limestone county for the twenty-seventh district. |
| "                    | "                | " " Robertson county for the twenty-eighth district.  |
| "                    | "                | " " Milam county for the twenty-ninth district.       |
| "                    | "                | " " Fort Bend county for the thirty-sixth district.   |
| "                    | "                | " " Washington county for the thirty-ninth district.  |
| "                    | "                | " " Comal county for the forty-third district.        |
| "                    | "                | " " Bexar county for the forty-fourth district.       |
| "                    | "                | " " Bexar county for the forty-fifth district.        |
| "                    | "                | " " Guadalupe county for the forty-sixth district.    |
| "                    | "                | " " Gonzales county for the forty-seventh district.   |
| "                    | "                | " " Matagorda county for the forty-eighth district.   |
| "                    | "                | " " Victoria county for the forty-ninth dist.         |
| "                    | "                | " " Goliad county for the fiftieth district.          |
| "                    | "                | " " Cameron county for the fifty-second district.     |
| "                    | "                | " " Nueces county for the fifty-third district.       |
| "                    | "                | " " El Paso county for the fifty-fourth dist.         |

Sec. 5. Be it further enacted, That in all elections, for Senators and Representatives to the State Legislature, should the Chief Justice of any county of this State be absent from the county, or unable to act, or should the office of Chief Justice be vacant, then any two of the Commissioners of such county shall have power to do and perform all acts relating to such election, which the Chief Justice might or could do and perform.

Sec. 6. Be it further enacted, That at the next biennial election for Senators and Representatives in the Legislature of this State, they shall be elected for the districts herein designated.

Approved, January 16, 1850.

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## CHAPTER XLV.

An Act supplementary to An Act entitled an Act supplementary to An Act to create the County of Smith, approved February 26, 1848.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioners appointed by an act entitled an act to create the county of Smith, approved April 11th, 1846, to locate the county seat of said county, be, and they or a majority of them, are hereby required to appear before the County Court of said county of Smith, on the third Monday of August, in the year eighteen hundred and fifty, and file in the office of the county clerk of said county, a correct statement of their proceedings, the number of lots which have been sold, the amount received for said sales, and the amount paid out by said commissioners, and for what purposes expended, etc.

Sec. 2. Be it further enacted, That the Commissioners or a majority of them shall, on the third Monday of August, in the year eighteen hundred and fifty, enter into bond and security, payable to the Chief Justice and his successors in office, to be approved of by the County Court for double the probable amount of funds they may have in their hands: conditioned that they will apply the proceeds, or as much thereof as necessary to a full completion of a court house and jail, as contemplated in [an] act supplementary to the aforesaid act, approved February 26, 1848.

Sec. 3. Be it further enacted, That after said court house and jail shall have been completed, the Commissioners or a majority of them shall appear before the County Court, and render

a correct and true statement of all their proceedings, and pay over the residue of the proceeds, if any there be, together with all bonds and papers of every description, that in any way relate to the acts of the Commissioners on the subject, at which time their functions shall cease as such commissioners.

Sec. 4. Be it further enacted, That the said Commissioners shall be allowed for each and every day, they may have attended in transacting said business, the same amount that County Commissioners are entitled to, and no more; and all laws and parts of laws that conflict with the provisions of this act, be, and the same are hereby repealed; and that this act take effect from and after its passage.

Approved, January 19, 1850.

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#### CHAPTER XLVI.

An Act to amend An Act to create the County of Webb, approved January 28, 1848.

Section. 1. Be it enacted by the Legislature of the State of Texas, That the first section of the above recited act be amended so as to read as follows:

Sec. 1. Be it enacted by the Legislature of the State of Texas, That the territory embraced within the following boundaries, to wit:—commencing at a point on the Rio Grande, opposite the mouth of the river Salado, and running up the Rio Grande to a point ten miles above the old town of Palafos; thence north thirty-two degrees east, until it strikes the river Nueces; thence down said stream to the upper corner of J. T. Doswell's survey; and thence in a straight line to the place of beginning, at the mouth of the Salado, shall constitute a county, and shall be called the county of Webb.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, January 19, 1850.

CHAPTER XLVII.

An Act supplementary to "An act regulating appeals in criminal cases," approved May 13, A. D. 1846.

Section 1. Be it enacted by the Legislature of the State of Texas, That on the trial of any indictment or prosecution of any criminal offence, in the District Courts of this State, an appeal may be taken on behalf of the State in the following cases, and no other: 1st. When a judgment shall be given for the defendant on a motion to quash an indictment, on information, or on a demurrer to an indictment, or information. 2d. When an order shall be made arresting a judgment in favor of the State.

Sec. 2. [Be it further enacted,] When an appeal shall be taken on behalf of the State under the provisions of this act, notice thereof shall be given in open court, at the time the judgment or order appealed from is pronounced, and in all such cases, if the offence for which the defendant is prosecuted, be one for which bail can be taken, the court shall require the defendant to enter into a recognizance, with two or more good and sufficient securities, for such an amount as the court shall deem sufficient, payable to the State of Texas, conditioned that the defendant will appear at the next term of the court, and from term to term, then and there to abide whatever judgment or decree the Supreme Court may render. But if the defendant neglect to give such recognizance, the court shall commit such defendant to jail until such recognizance is given, or until he shall be discharged by due course of law; and in all such cases, if the offence for which the defendant is prosecuted be one that is not bailable, then the court shall commit such defendant to jail, there to remain until he shall be discharged by due course of law.

Sec. 3. [Be it further enacted,] That appeals taken under the provisions of this act, shall in all matters not herein provided for, be regulated by the provisions of the act to which this is a supplement, except that no security for any such appeals shall be required from the State.

Approved, Jan. 19, 1850.

## CHAPTER XLVII.

An Act supplementary to an act defining the office and duties of Constables, approved May 12, A. D. 1846.

Section 1. Be it enacted by the Legislature of the State of Texas, That in all cases where the office of Sheriff may be vacant, or where the Sheriff is a party to, or interested in any suit pending in the courts of his county, process may be directed to, and served by any Constable in such county.

Sec. 2. Be it further enacted, That in all cases where an affidavit shall be filed with the clerk of any court in this State, of the partiality, prejudice, consanguinity, or affinity of the Sheriff of the county, where suit is brought, or to be brought, or shall have commenced, such clerk may issue and direct the original or other process in such suit to any Constable of the county, who shall serve the same in like manner as the Sheriff should do.

Sec. 3. Be it further enacted, That this act shall take effect and be in force from and after its passage.

Approved, Jan. 19, 1850.

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CHAPTER XLIX.

An Act to authorize the Surveyor of Smith county to record certain field-notes therein mentioned.

Section 1. Be it enacted by the Legislature of the State of Texas, That the County Surveyor of Smith county be, and he is hereby authorized and required to record the field-notes of all surveys which have been made within the limits of said county in conformity to law, by the deputy Surveyor of the District of Nacogdoches.

Sec. 2. Be it further enacted, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue patents upon the same, as if they had been returned and recorded in the office of said district Surveyor of Nacogdoches, and that this act take effect and be in force from and after its passage.

Approved, Jan. 19, 1850.

CHAPTER L.

An Act to amend the 3d, 6th, 7th and 9th sections of an act authorizing and requiring the County Courts to regulate roads, appoint Overseers, &c., approved March 15, 1848.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Third section of the above recited act, be so amended as to read as follows: Sec. 3. That the county courts of the counties shall lay off their counties into road precincts, and shall, at their first meeting in each and every year, appoint one overseer for each precinct, and shall, at the same time, designate all the hands liable to work on public roads under the different overseers in their county, and in case any hand, or hands, liable to work on roads, shall not have been designated by said court, the overseer shall have power to summons them on the nearest public road to which they may live, as if they had been designated by the Court: Provided, ten days residence be necessary to require the performance of said road service. But if, from any cause, the court should fail or neglect to perform the duties required in this section at its first meeting in the year, it shall be competent and legal for it to make such appointment and designation at a called meeting, or at its next regular term.

Sec. 2. Be it further enacted, That the Sixth section of the above recited act, shall be amended so as to read as follows: Sec. 6. That the overseer of the roads shall have power to call out all persons liable to work on public roads, at any time when it may appear necessary to work or repair the roads, or any part of them in their precinct: Provided, that no one person shall be compelled to work on more roads than one, nor more than six days in each year, and further provided, that every overseer of a road shall work through his beat at least twice in each year, between the months of April and August, and between the months of September and January.

Sec. 3. Be it further enacted, That the Seventh section of said act, shall be amended so as to read as follows: Sec. 7. That it shall be the duty of the overseer of any road, to give two days' previous notice by summons in person, or in writing left at their respective places of abode, to all free male persons, as well as to the owners, overseers or employers of slaves liable to work on the road in his precinct, to meet at such time and place for that purpose as he shall designate; and bring with them such tools to work with as he shall direct; and if any free person so summoned shall fail to attend, or send a substitute to work in his

place, or when attending, shall fail or refuse to perform his duty as required, such person shall forfeit and pay, for each and every day he may so fail to attend or refuse to work, the sum of one dollar, together with all costs of suit, to be recovered by judgment in the same manner as in cases of debt, before a Justice of the Peace of his county, in the name of the Chief-Justice thereof, and if a slave, the sum of one dollar shall in like manner be recovered from the owner, overseer or employer, for each and every day such slave shall fail to work as required: Provided, all reasonable excuses shall be heard and allowed; and, provided, further, that a list of the defaulting road workers, furnished by the overseer, shall be a sufficient showing to authorize the Justice of the Peace to issue writs against the parties liable; upon the return or the trial day of which, whether the defendant appear or not, it shall be the duty of the overseer to show by his own, or the testimony of some other person, that the defendant was summoned verbally, or by writing, to work on the road; and if by writing, the testimony of the person leaving the notice shall be necessary, upon which judgment shall be had: but in no event shall the overseer be liable for the costs, nor shall he be required to give bond in case he should wish to take an appeal to the district court.

Sec. 4. Be it further enacted, That the Ninth section of the above entitled act, shall be so amended as to read as follows: Sec. 9. That if any person or persons whatever, shall alter or change any public road, unless it be done by permission of the county court, he, she or they shall, on conviction thereof, forfeit and pay the sum of five dollars for each week the road is turned out of its old course, and if any person or persons shall erect, or cause to be erected across any public road, any bar, fence, or fall any tree or brush, or any impediment of any kind whatever, and shall not remove such impediment within twenty-four hours, he or they shall forfeit and pay the sum of three dollars for every day the impediment shall remain in said road; to be recovered in the manner prescribed in the second section of this act, on the information of any person residing in said county, provided the party shall have at least five days' notice by citation as in other cases.

Sec. 5. Be it further enacted, That the sixth, seventh and ninth sections of the above recited act are hereby repealed, and that this act take effect from and after its passage.

Approved, Jan. 19, 1850.



CHAPTER LI.

An Act to secure to all actual settlers within the limits of the Colony granted to Peters and others, commonly known as Peters' Colony, the land to which they are entitled as Colonists.

Section 1. Be it enacted by the Legislature of the State of Texas, That all actual settlers who have emigrated to this State as colonists, and settled within the limits of the colony granted to Peters and others, commonly known as Peters' Colony, prior to the first day of July, in the year eighteen hundred and forty-eight, shall be entitled to the quantity of land hereinafter stated, to wit: each head of a family shall be entitled to six hundred and forty acres of land—including his or her improvements, and each single man, who was at the time of his emigration to, and settlement in said colony, over the age of seventeen years, shall be entitled to three hundred and twenty acres of land, including his improvements.

Sec. 2. Be it further enacted, That the heirs or legal representatives of such settlers as have died subsequently to their settlement within said colony limits, shall be entitled to the same quantity of land to which the persons whom they represent would have been entitled.

Sec. 3. Be it further enacted, That where two or more colonists have settled on one and the same section, half section, or fraction of a section, the oldest settler shall be entitled to the preference, in which case the party dispossessed shall be entitled to his or her proper quantity of land, to be located on any of the vacant public domain within said colony limits.

Sec. 4. Be it further enacted, That when two or more colonists shall have settled upon the same section, half section, or fraction of a section by mutual consent, the same shall be divided according to agreement, and each colonist so settled, shall be entitled to the residue which may remain unsatisfied of his or her claim, to be located on any vacant lands within the limits of said colony.

Sec. 5. Be it further enacted, That when a settler may have made his location on lawful surveys made within the limits of said colony, prior to the date of said colony grant, and which are by law excepted out of said grant, the said settler shall be entitled in lieu thereof to locate the quantity of land due him or her by virtue of his or her emigration and settlement on any vacant lands within the limits of said colony.

Sec. 6. Be it further enacted, That each settler shall be confined to the section, half section, or fraction of a section as heretofore surveyed, if the field-notes can be obtained; but if such field-notes cannot be obtained, the county or district surveyor of each county or district, may be required to survey the section, half section, or fraction of a section for such settler, and the surveyor in such cases shall be governed by the laws defining the duties of county surveyors.

Sec. 7. Be it further enacted, That to entitle settlers to the benefits of this act, they shall each be required to prove by his or her own oath, supported by the oaths of two other witnesses, that such settler emigrated to Texas and settled within the limits of said colony granted to Peters and others, as a colonist, prior to the first day of July, eighteen hundred and forty-eight, and that they have since continued, and still remain settlers in said colony, and have performed all the duties required of them as good citizens. The applicants shall also be required to swear that they, or the colonists under whom they claim, if heirs or representatives, have never received land from the government of Coahuila and Texas, nor of the Republic or State of Texas, as emigrants or colonists.

Sec. 8. Be it further enacted, That the Governor of the State, by and with the advice and consent of the Senate, shall appoint a Commissioner, whose duty it shall be to hear proof, and determine what settlers are entitled to land by virtue of this act, and whether the claim of such settler be under the first or second contract, and if the former, so state, and annex a copy of the field-notes of the survey, and if the latter, he shall set forth the number of the section, township and range; and if a fractional section, the number of the fraction with the township and range; and if upon an old survey, he shall so certify; and if the lands have never been surveyed, state that fact.

Sec. 9. Be it further enacted, That said Commissioner shall keep a well bound book for the purpose of registering the names of all persons receiving land under this act, the amounts of land to which they are entitled, with the names of the witnesses, and the substance of the evidence of said witnesses, together with the affidavit of the claimant; and that said Commissioner shall, as soon as he has taken all the proof so far as presented to him, within said colony, return the same to the Commissioner of the General Land Office.

Sec. 10. Be it further enacted, That in the event the field-notes of the surveys heretofore made, cannot be obtained by the first day of April, in the year eighteen hundred and fifty, the

county or district surveyor shall proceed to re-survey said lands, and in so doing, shall have respect to, and be governed by the surveys heretofore made, and the said county or district surveyor, as the case may be, shall every three months make a return of his field notes, accompanied by a correct map of such surveys made by him, to the Commissioner of the General Land Office, his legal fees to be paid by the person for whose benefit such survey is made.

Sec. 11. Be it further enacted, That whenever the Commissioner appointed under the provisions of the eighth section of this act, shall make his returns to the Commissioner of the General Land Office, and the county or district surveyor shall return his field-notes, with a plot of said surveys, certifying for whom made, the Commissioner of the General Land Office shall examine the returns of said Commissioner, and said field notes, and if the same are approved by him, he shall proceed to issue patents, upon such evidence as herein provided for being furnished by said Commissioner and surveyor, to the claimants to whom such patents may thus be shown to belong, the claimant in all cases paying the usual fees.

Sec. 12. Be it further enacted, That the Commissioner appointed by virtue of this act, before he enters on the duties of his office, shall give bond in the sum of twenty thousand dollars, with good and sufficient security, to be approved of by the Governor, and payable to the State of Texas, conditioned, that the said Commissioner shall well and truly and impartially do and perform all the duties devolving upon him under this act. He shall also take an oath faithfully and impartially to discharge the duties by this act imposed on him, to the best of his skill and ability, which affidavit shall be endorsed on said bond, and with the same shall be deposited in the office of the Secretary of State, which bond may be put in suit, and the damages sustained recovered by the State of Texas, or any person injured by the wrongful acts or omissions of the Commissioner.

Sec. 13. Be it further enacted, That the Commissioner appointed in compliance with this act, shall, when required so to do, issue to any colonist who may be entitled to the same, a copy of the entry in his book, certified under his hand, and a seal to be by him procured, with the words "Commissioner" and name of the Commissioner engraved thereon, which shall be sufficient authority to the surveyor for making a survey of the land to which, by said certified copy, he shall appear to be entitled under the provisions of this act, and which copy shall not be transferable, and so express on its face, for which copy and certificate,

he shall receive the sum of fifty cents. The said Commissioner shall also receive two dollars at the time of entering the evidence of title contemplated by this act, to be paid by the applicant, and said Commissioner shall do and transact the business and duties required of him at the town of Dallas, in Dallas county; the town of McKinney, in Collin county; the town of Sherman, in Grayson county; the town of Alton, in Denton county, and the town of Waxahachie, in Ellis county.

Sec. 14. Be it further enacted, That in the case where the claim of any individual may be rejected by the Commissioner established by this act, said claimant shall have the right of appeal to the District Court of the county wherein he or she applied, under the rules and requirements prescribed by law for appeals from Justices' to the District Courts, except that the appeal bond shall be required only to cover the costs of appeal, for which only the appellant shall be liable, in case of the affirmance of the judgment in the District Court; should the judgment appealed from be reversed in the District Court, an appeal may be taken to the Supreme Court on behalf of the State, and should the judgment of said District Court be affirmed, upon the mandate being returned to the District Court, a certificate shall be issued by the clerk of said court, in favor of the party claiming the same, in accordance with the provisions of the seventh section of this act.

Sec. 15. Be it further enacted, That nothing herein contained shall be construed so as to place the contractors of said Colony in a better or worse condition, in regard to the State of Texas, than they would be, if this act had not been passed.

Sec. 16. Be it further enacted, That said Commissioner shall continue to perform the duties imposed on him by this act, for two years after his appointment, and that this act take effect from and after its passage.

Approved, January 21, 1850.

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## CHAPTER LII.

An Act to secure to the German Emigration Company and their Colonists the Lands to which they are entitled, and to adjust the liabilities of said company.

Section 1. Be it enacted by the Legislature of the State of Texas, That every colonist, and the heirs, executors or administrators of every colonist, introduced into Texas by the "German

Emigration Company" previous to the first day of September, in the year eighteen hundred and forty seven, under and by virtue of the colonization contract of Henry F. Fisher and Burchard Miller with the President of the late Republic of Texas, shall receive the lands to which such colonist, or their heirs, or legal representatives are entitled, to wit: six hundred and forty acres for each head of a family, and three hundred and twenty acres for each single man over the age of seventeen years; and said company shall receive the following premium lands to which they are entitled by virtue of said contract, for introducing the colonist, to wit: ten sections of six hundred and forty acres each, for every one hundred families, and ten half sections of three hundred and twenty acres each, for every one hundred single men over the age of seventeen years.

Sec. 2. Be it further enacted, That there shall be appointed, by the Governor by and with the advice and consent of the Senate, a Commissioner whose duty it shall be to hear proof, and determine what colonist have been introduced into Texas by said company in virtue of said colony contract; and said Commissioner shall issue to the colonist who have not already received certificates for their lands, or to the heirs or legal representatives of such colonist, certificates for their proper quantity of land; and he shall also issue to said company or their authorized agent or trustee, for every hundred families by said company introduced, ten certificates for one section of land, each of six hundred and forty acres, and for every hundred single men over the age of seventeen years, ten certificates for one-half section of land each, of three hundred and twenty acres.

Sec. 3. Be it further enacted, That it shall be the duty of the Commissioner of the General Land Office to furnish the Commissioner appointed by virtue of this act, a map of all surveys within the limits of the said colony, upon which the lands already appropriated shall be noted; and the grantees of certificates issued in conformity to this act, shall select their lands in the manner herein set forth, to wit: The party in interest shall designate to the Commissioner issuing the certificates, the tract or tracts of land such party may wish to locate within said colony limits, and the Commissioner shall attach to the certificate a description of the lands thus selected, provided, that in the selections of the colonists, as well as that of the premium lands, regard must be had to the provisions of said colony contract in reference to the alternate sections.

Sec. 4. Be it further enacted, That it shall be the duty of the Commissioner appointed in conformity to this act, to send to

the Commissioner of the General Land Office a monthly list, under oath, containing a description of the certificates issued by him, and the lands selected in virtue of the said contract; and he shall also keep a record in a well bound book, showing the quantity of land for which each certificate is issued, the name of the party obtaining the same, and the names of the witnesses who make the proof, which record book shall be deposited in the General Land Office at the expiration of the time limited in this act for granting certificates.

Sec. 5. Be it further enacted, That to entitle any colonist to the benefits of this act, such colonist shall take the following oath: "I, (A, B,) do solemnly swear, that I was introduced into Texas by virtue of the colonization contract of Henry F. Fisher and Burchard Miller with the President of the late Republic of Texas, before the first day of September, eighteen hundred and forty-seven, and that I have not as yet, received a certificate for my land;" and such colonists shall also prove the facts in said affidavit by at least two disinterested respectable witnesses; but in case the applicants shall be heirs, executors, or administrators of such colonist, they shall not be required to take such oath, but shall prove by two disinterested respectable witnesses, that the person whom they represent was introduced in the manner and within the time set forth in said affidavit.

Sec. 6. Be it further enacted, That to entitle said company to certificates for premium lands, the number of colonists introduced by them previous to the first day of September, eighteen hundred and forty-seven, must be proved by the oath of the agent or trustee of said company, and by the testimony of at least three disinterested respectable witnesses, to the satisfaction of said Commissioner; and certificates for premium lands shall issue only for the number of colonists thus proved to have been introduced.

Sec. 7. Be it further enacted, That certificates issued in compliance with this act, and the field notes of the lands designated in the same, shall be subject to the inspection of the Commissioner of the General Land Office, and if found by him correct, and in conformity to this act, he shall issue to the parties entitled to the same, patents for their lands.

Sec. 8. Be it further enacted, That the Commissioner of the General Land Office is hereby authorized, to issue patents to the grantees, their heirs, or legal representatives, of certificates issued by William F. Evans, a Commissioner appointed in pursuance of an act passed March 20th, 1848, upon presentation of said certificates, and the field notes of the lands therein designated.

Sec. 9. Be it further enacted, That the Commissioner elected

by virtue of this act, before he enters on the duties of his office shall give bond in the sum of twenty thousand dollars, with security to be approved by the District Judge of the second Judicial District, which bond shall be drawn in favor of the State, conditioned, that the Commissioner shall faithfully and impartially discharge the duties imposed on him by this act; and he shall also take an oath faithfully and impartially to discharge the duties which this act imposes on him to the best of his skill and ability, which oath shall be endorsed on said bond, and with the same shall be deposited in the office of the Secretary of State.

Sec. 10. Be it further enacted, That the government of this State hereby consents to sell to the said German Emigration Company, at the price of fifty cents per acre, all the lands within said colony limits, which have been surveyed at the expense of said company, and which remain to the government after the selections of the premium and colonists lands; and the said company, their trustee or agent, wishing to purchase the same, shall make a written application to the Commissioner of the General Land Office, in which the lands they wish to purchase shall be particularly described; and on the payment of the purchase money to him, and the presentation of the field notes of the lands purchased, the said Commissioner of the General Land Office shall issue patents for the said lands, to the said company or to their agent or trustee; and the proceeds of such sales shall be deposited in the Treasury of the State, and appropriated to the payment of the public debt; provided, said company shall be obliged to take at least fifty sections, at each purchase, at the price aforesaid, without selection, and in the same range, block or square.

Sec. 11. Be it further enacted, That citizens of Texas, creditors of said company, shall have a lien in the nature of a mortgage upon the premium lands, and the lands obtained by contract from individual colonist and the State, acquired in accordance with this act, by conforming to the following requisites, viz:— Such creditors (except those who have suits pending, or have obtained a judgment against said company in some one of the Courts of the State, or the District Court of the United States for the District of Texas,) shall file in the office of the county clerk of Bexar county, a written statement of the nature of the claim against said company, and shall file therewith the obligation or evidence of such indebtedness, if the same be in writing; and if within six months from the passage of this act, said claim be not paid, the party owning the same can bring suit thereon in the District Court of said county, and upon the recovery of a final

judgment, he can have execution against said lands, or a sufficiency thereof to satisfy the same. In such suits against said company, process can be served upon the agent or trustee of said company, and if they have no agent or trustee, or he cannot be found, then publication of the writ or process, by sticking a copy thereof up at the court house door of Comal county for four weeks before the return day thereof, shall be deemed and held sufficient service of such writ or process; and in suits which have been commenced, or upon which judgment may have been rendered in any of the above mentioned courts, against the said company or those under whom they claim, the party prosecuting or owning the same, shall not be compelled to file the same, but such creditor shall be entitled to the same lien as attaches to other creditors filing their claims from the date of his or her judgment, and all process necessary to be issued in any such suits may be served by the proper office as above directed; provided, that such creditors who have a judgment or may obtain a judgment upon suits already commenced, shall have a lien from the date of their judgments upon the lands mentioned, and any other lands or property belonging to said company within this State, and if the same be not paid or discharged within the said six months from the passage of this act, may have execution therefor, and may levy the same upon the said lands and property, and have the same sold or so much thereof as may be necessary to satisfy the same; provided, that nothing in this act shall be so construed as to deprive the said company of any legal or equitable remedy or defence to which any other citizen is entitled.

Sec. 12. Be it further enacted, That said Germain Emigration Company, their agents or trustees, are hereby authorized and empowered to take, receive, hold, purchase, and convey real estate; and it is hereby made the duty of said company to cause to be recorded in the county or counties where the lands may lie, the titles which they may acquire to any lands in this State before they can transfer the same.

Sec. 13. Be it further enacted. That for each land certificate issued by the Commissioner, he shall receive from the party obtaining the same, the sum of two dollars, which shall be payment in full for the services and duties this act imposes on him; and he shall do and transact the business and duties required of him at the town of Fredericksburg, in the county of Gillespie, and the city of New Braunsfel, in the county of Comal, and at such other places as the said Commissioner may deem most convenient to those entitled to certificates.

Sec. 14. Be it further enacted, That the term of eighteen



months from and after the first day of May, in the year eighteen hundred and fifty, is hereby limited and allowed for granting and obtaining certificates, under the provisions of this act.

Sec. 15. Be it further enacted, That an act entitled an act to secure to the colonists of Fisher & Miller's colony, the lands to which they may be entitled, passed March 20, 1848, be, and the same is hereby repealed; and that this act take effect and be in force from and after its passage.

Approved, January 21, 1850.

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### CHAPTER LIII.

#### An Act to perfect the Land Titles in Castro's Colony.

Section 1. Be it enacted by the Legislature of the State of Texas, That every colonist, and the heirs and legal representatives of every colonist, introduced into Texas by virtue of the colonization contract of H. Castro, prior to the fifteenth day of February, in the year eighteen hundred and forty-seven, shall receive their lands as follows, to wit: Each head of a family six hundred and forty acres of land, and each single man who was seventeen years of age at the time of his introduction, three hundred and twenty acres of land: and the contractor, H. Castro, shall receive premium lands for the colonists introduced by him, as follows, to wit: ten sections of six hundred and forty acres each, for every one hundred families, and ten half sections of three hundred and twenty acres each, for every one hundred single men over the age of seventeen years: and one section of six hundred and forty acres for each one hundred families introduced, for school and religious purposes, provided that said Castro shall hold said sections of six hundred and forty acres donated for school and religious purposes, in trust for the use and benefit of the colonists.

Sec. 2. Be it further enacted. That the Governor, by and with the advice and consent of the Senate, shall appoint a Commissioner, whose duty it shall be to hear proof, and determine what families have been introduced into Texas by H. Castro, by virtue of said colony contract; and said Commissioner shall issue to the colonists, or the heirs and legal representatives of the colonists, certificates for their proper quantity of land, and he shall also issue to said Castro, for every hundred families introduced by him, a certificate for ten sections of land of six hun-

dred and forty acres each, and for every hundred single men over seventeen years of age, a certificate for ten half sections of land, of three hundred and twenty acres each.

Sec. 3. Be it further enacted, That the grantees of certificates issued in conformity to this act, shall receive their land in the following manner, viz: The party in interest shall designate to the Commissioner issuing the certificates as aforesaid, the tract of land which has already been assigned to him within the colony grant, as defined by said colonization contract, and the Commissioner shall attach to the certificate a description of the section or half section selected, if such section or half section has already been surveyed, and if a sufficient quantity of surveys has not already been made, then the Commissioner shall issue a certificate to the party interested, which shall be sufficient authority to authorize the surveyor to survey the quantity of land for which it calls, within the colony limits, the party interested paying the cost of the survey.

Sec. 4. Be it further enacted, That it shall be the duty of the district surveyor of Bexar district, to furnish the Commissioner of the General Land Office with a map of all surveys within the aforesaid colony limits, and also, to furnish a similar map to the Commissioner appointed by virtue of this act, upon which maps the land selected as provided in the preceding section, shall be noted, for which duty the said surveyor of Bexar district shall receive such compensation as shall be approved by the county court of Medina county.

Sec. 5. Be it further enacted, That it shall be the duty of the Commissioner appointed under this act, to furnish the Commissioner of the General Land Office with a monthly list, under oath, containing a description of certificates issued in compliance with this act, and he shall also keep a record in a well bound book, showing the quantity of land for which each certificate is issued, the name of the party obtaining the same, and the names of the witnesses who make the proof; and said Commissioner shall deposit said record in the General Land Office, at the expiration of the time limited in this act for granting certificates.

Sec. 6. Be it further enacted, That to entitle any colonist to the benefits of this act, such colonist shall take the following oath: "I, (A. B.) do solemnly swear that I was introduced into Texas by H. Castro, according to a contract signed between us, in virtue of the colonization contract of said H. Castro with the government of Texas, before the fifteenth day of February of the year eighteen hundred and forty-seven," and shall also prove the facts in said affidavit by at least two respectable witnesses; but

in case the applicants be heirs or executors of such colonists, they shall not be required to take the oath, but shall prove by two respectable witnesses that the colonists whom they represent had emigrated to Texas in the manner, and within the time set forth in the foregoing affidavit.

Sec. 7. Be it further enacted, That to entitle the contractor, H. Castro, to certificates for premium lands, he must prove the number of colonists introduced by him previous to the fifteenth day of February, eighteen hundred and forty-seven, by his oath, and by the testimony of three disinterested witnesses, to the satisfaction of the Commissioner, and certificates for premium lands shall issue only for the number of colonists then proven to have been introduced.

Sec. 8. Be it further enacted, That certificates issued in compliance with this act, and the field-notes of the land designated in the same, shall be subject to the inspection of the Commissioner of the General Land Office, and if found by him correct, and in conformity to this act, he shall issue to the parties entitled to the same patents for the said lands.

Sec. 9. Be it further enacted, That the Commissioner appointed by virtue of this act, before he enters on the discharge of his duties, shall give bond in the sum of twenty thousand dollars, with security to be approved by the Judge of the fourth judicial district, which bond shall be drawn in favor of the State of Texas, conditioned, that the Commissioner shall faithfully and impartially discharge the duties enjoined on him by this act, and the Commissioner shall also take the oath prescribed by the constitution, which oath shall be endorsed on said bond, and shall be deposited in the office of the Secretary of State.

Sec. 10. Be it further enacted, That the Commissioner appointed in compliance with this act, shall certify each certificate issued by him, by a seal to be procured by him, with the words "Commissioner of Castro's Colony," and the name of the Commissioner engraved thereon, and shall receive two dollars for every certificate issued by him, to be paid by the party receiving the same, and he shall do and transact the business contemplated in this act, at the town of Castroville, in Medina county.

Sec. 11. Be it further enacted, That the colonists and contractor are hereby allowed eighteen months from the first day of April, in the year eighteen hundred and fifty to obtain their certificates, and no longer.

Sec. 12. Be it further enacted, That the description of the north-eastern boundary of the colony of H. Castro, shall be understood to be the dividing ridge between the waters of the Rio

Frio and Medina rivers, and to continue with that ridge to a point twenty miles above the upper Presidio del Rio Grande road.

Sec. 13. Be it further enacted, That in case of death, resignation or any inability on the part of the Commissioner, the Governor shall appoint another Commissioner to fill the vacancy thus occasioned.

Approved, January 22, 1850.

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## CHAPTER LIV.

### An Act to create the County of McClennan.

Section 1. Be it enacted by the Legislature of the State of Texas, That all that territory comprised within the following limits, to wit: Beginning at the upper corner of L. B. Frank's league of land, being league No. 5, on the south side of the Brazos river, in Milam county; thence running south 60° west 23 miles; thence north 30° west 25 miles; thence north 60° east or south 60° west to the dividing ridge between the waters of the Brazos and San Andrews or Little river; thence along said ridge to the north or north-west boundary of Milam county; thence with said boundary to the Brazos river; thence down the Brazos river to a point 15 miles above the Waco Village; thence north 60° east sixteen miles; thence south 30° east to a point north 60° east from the beginning; thence south 60° west to the place of beginning, shall be constituted into a new county, and called the county of McClennan.

Sec. 2. Be it further enacted. That Lee R. Davis, Albert Cloys, Shaply P. Ross, John W. Jones, and D. E. Landon be, and they are hereby appointed Commissioners to locate the seat of justice of said county of McClennan, and they, or a majority of them, shall be authorized to act, and if they may think it expedient, to purchase at the expense of said county, any amount of land not exceeding three hundred and twenty acres, but may receive as donations any quantity which may be granted to them, and they shall lay off the same into squares and lots, and dispose of the lots by public sale, reserving suitable lots or squares for a courthouse, clerks' offices, jail, school houses, churches and such other public buildings as they may think proper or advantageous;

and they shall apply the proceeds of the sales to the erection of such public buildings as they may think necessary or beneficial.

Sec. 3. Be it further enacted, That it shall be the duty of said Commissioners to make a full exhibit to the county court of said county, within eighteen months after the passage of this act, at which time their authority shall cease, unless the county court shall extend the term of their services.

Sec. 4. Be it further enacted, That the Chief-Justice of Milam county shall organize said new county in conformity to law, and that the said county of McClellan shall belong to the third judicial district of this State, and that this act take effect and be in force from and after its passage.

Approved, January 22, 1850.

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## CHAPTER LV.

### An Act to create the County of Bell.

Section 1. Be it enacted by the Legislature of the State of Texas, That all the territory comprised within the following described limits, to wit: Beginning in the north-east boundary of Williamson county, at a point bearing south sixty degrees west from the north-east corner of league No. eight, on the west bank of the Brazos river, in the name of S. Frost; thence north sixty degrees east to a point bearing south thirty degrees east from the south corner of McClellan county; thence north thirty degrees west to, and with the south-west boundary of McClellan county, thirty-two miles; thence south, sixty degrees west to a point, from which a line runs south thirty degrees east to Williamson county, and with the latter to the place of beginning, will enclose within this county nine hundred and fifty square miles, and shall be called the county of Bell.

Sec. 2. Be it further enacted, That the following described territory shall be attached to, and form a territorial part of said county of Bell, to wit: Beginning at the north-west corner of the above described county, and run north thirty degrees west with the south boundary of McClellan county to the dividing ridge between the waters of the Brazos and Colorado rivers; thence with said dividing ridge to the west corner of Williamson county; thence with the north boundary of Williamson county to the south-east corner of said Bell county.

Sec. 3. Be it further enacted, That the Chief Justice of Milam county shall organize said county of Bell in accordance with law, and shall within three months after the passage of this act, order an election for five Commissioners, all of which shall reside within the limits of said new county, and shall cause said election to be advertised at three public places in said county, at least ten days previous to said election, and when said election shall have been had, due return thereof shall be made to the said Chief Justice of Milam county within ten days thereafter; who shall open and compare the same, and shall certify under the seal of his office, the result of said election.

Sec. 4. Be it further enacted, That it shall be the duty of the Commissioners so elected, or a majority of them, to proceed to locate the county seat for said county of Bell, and shall locate the same as near the centre of said county, as land, timber and water will admit, and may, if they think proper, employ a surveyor, at the expense of said county, and may make, or cause such surveys as may be necessary for the purpose of ascertaining the centre of said county as will ensure the permanent location of said county seat; and said Commissioners shall have power to purchase for the use, and at the expense of said county, not more than three hundred and twenty acres of land, or may receive the same as a donation, and shall lay off the same, or a part thereof into convenient squares and lots, reserving such portion of squares and lots as may be necessary for a court house, jail, clerks offices, churches, and school houses as the Commissioners may think proper, and shall offer the remainder for sale at public auction, on such time and terms as they may deem most conducive to the interest of said county, and shall apply the proceeds of such sales to the erection of necessary public buildings for the use of said county.

Sec. 5. Be it further enacted, That so soon as the County Court of said county shall be properly organized, it shall be the duty of the Chief Justice to notify the Commissioners thus elected or their successors, to come forward and make a fair exhibit of all their official acts as such Commissioners, at which time their functions shall cease unless the Chief Justice shall think it necessary to extend their term of service.

Sec. 6. Be it further enacted, That it shall be the duty of the Chief Justice of Milam county, so soon as the county seat of said Bell county shall have been located, to order an election for all county officers of the said new county; and the votes polled in such election shall be returned to said Chief Justice of Milam county, in accordance with law, who shall issue certificates of

election to the officers elected in the same manner as he is required to issue certificates of election to the officers of Milam county and that the said new county shall belong to the third Judicial District of the State of Texas.

Sec. 7. Be it further enacted, That the Commissioners elected and acting, shall be allowed and paid out of the county treasury of said county, the sum of one dollar per day each, for every day they may be necessarily employed in the discharge of duties herein assigned them; and that this act take effect and be in force from and after its passage.

Approved, January 22, 1850.

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## CHAPTER LVI.

Joint Resolution, requiring all the taxes coming to the State from the people of Jasper county for the year 1850, excepting the ten per cent. reserved by the Constitution for Educational purposes, to be appropriated to the building of a Courthouse and Jail for the use of said County.

Whereas, the county of Jasper has lately suffered serious calamity and loss, in the burning of her Courthouse and Jail, which her public resources, already greatly encumbered by previously existing debt, will not be able to repair for years; therefore,

Be it resolved by the Senate and House of Representatives of the State of Texas, That all the taxes coming to this State from the people of Jasper county in and for the year 1850, except the ten per cent. reserved by the Constitution for educational purposes, which shall be paid into the State Treasury as heretofore, be, and they are hereby relinquished on the part of the State to the proper authorities of said county, to be applied by them solely to the erection of a Courthouse and Jail for said county.

Be it further resolved, That this resolution take effect from and after its passage.

Approved, January 23, 1850.

## CHAPTER LVII.

An Act declaring Bear Creek, in Sabine county, to be a navigable stream.

Section 1. Be it enacted by the Legislature of the State of Texas, That the creek called Bear Creek, running out of Sabine county into the Ayish Bayou near its junction with the Angelina river, be, and the same is hereby declared to be a navigable stream from its mouth up to its junction with Gibbs' creek, and that this act shall take effect from its passage.

Approved, January 23, 1850.

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CHAPTER LVIII.

An Act to provide for the collection of the uncollected taxes assessed for, and due the late Republic of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That all persons who held the office of Sheriff, in any county under the late Republic of Texas, into whose hands any tax rolls for said Republic were placed, for the purpose of collecting the taxes due under said rolls, may certify the uncollected balance of taxes due the State and county, assessed upon the rolls of each year, to the present Assessors and Collectors of taxes of each county, who shall execute a receipt for the same, and shall proceed to collect the taxes shown to be due by such certificate, in the same manner as provided for by the laws under which the assessments were originally made, and the Assessors and Collectors receiving the said certificates, shall have power and authority to seize and sell property for the payment of such taxes, as provided for by the laws in force when such taxes were originally assessed and became due, and such sales shall be made in accordance with those laws.

Sec. 2. [Be it further enacted,] That where new counties have been formed out of the territories of old counties, then the person making the said certificate, shall certify the amount of such tax due by the citizens of the new counties to the Assessors and Collectors of such new counties, who shall proceed to collect such taxes in like manner, and with like powers and authority as provided for in the first section of this act.



Sec. 3. [Be it further enacted,] That the Assessors and Collectors collecting such tax, shall pay the same in like manner as taxes now assessed and collected are paid into the Treasury of the State, and shall receive for their services ten per cent. on the amount collected by them.

Sec. 4. [Be it further enacted,] That if said taxes were collectable originally in the promissory notes of the Republic of Texas, the same may be paid in any of the liabilities of the late Republic of Texas, or by paying one-fifth of the amount in gold or silver; if said taxes were originally collectable in Exchequer bills of the late Republic of Texas, the same be paid in gold or silver, or in exchequer bills, or by paying government liabilities of the late Republic of Texas, at the rate of five dollars of such liabilities for one dollar in exchequer bills.

Sec. 5. [Be it further enacted,] That if any person charged with taxes under the provisions of this act, shall claim to have paid the same, he shall make and subscribe an affidavit of such payment, which affidavit shall be returned by the Assessor and Collector of taxes to the Treasury. The representatives of deceased persons and guardians of minors may show payment in the same manner, and in such cases no sale of property shall be made for the taxes claimed under this act.

Approved, Jan. 23, 1850.

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## CHAPTER LIX.

### An Act to regulate Ferries.

Section 1. Be it enacted by the Legislature of the State of Texas, That every person owning the land fronting upon any water course, navigable stream, lake or bay, shall be entitled to the privilege of keeping a public Ferry over or across such water course, stream, lake or bay; if he owns the lands on both sides or banks, he shall be entitled to the sole and exclusive right of ferryage at such place; if he owns the lands on one side only, he shall have the privilege of a public ferry from his own shore, with the privilege of landing his boat and passengers on the opposite shore, with the consent of the owner of the land on said shore: if such consent cannot be obtained, he may apply to the county court for the establishment of a public road from said opposite shore; and said court shall act on such application as in other cases.

Sec. 2. That no person shall keep any ferry over or across any water course, navigable stream, lake, or bay, so as to charge any compensation for crossing the same, without first procuring a license from the county court of the county in which such ferry is situated.

Sec. 3. That when a water course, navigable stream, lake, or bay, makes a part of the boundary line of this State, if any tax or charge shall be assessed or collected by any such adjoining State, for the privilege of a ferry landing on the shore or bank of such State from this State, then the same tax or charge may be assessed and collected by the county court for the like privilege of landing on the bank or shore of this State.

Sec. 4. That any person wishing to establish a ferry across any water course, navigable stream, lake, or bay in this State, shall apply to the county court of the county in which such ferry site may be, and on the applicant showing that he is the lawful owner of such land as the ferry is sought to be established on, and also, satisfying the court that the public convenience will be promoted thereby, such court shall grant such license.

Sec. 5. That when a county court shall establish a ferry, they shall state in their record the rates of toll or ferriage which may be demanded for ferrying passengers, carriages, wagons, carts, beasts, and such other property as is usually transported by ferries; and the said courts may, at their first term in each year, revise and change the rates of toll or ferriage at all ferries that have been or may be established in their county: but all such revisions and changes shall be entered of record, and shall not take effect at any ferry until the expiration of the license under which such ferry may be carried on.

Sec. 6. That the owner or licensed ferrymen of each ferry which has heretofore been established in this State, shall within six months after this act takes effect, apply to the county court of the county or counties where such ferry is situated, and obtain a license for such ferry, and he shall annually thereafter obtain a renewal of such license.

Sec. 7. That the owners of all ferries shall annually enter into bond, payable to the Chief-Justice of their county, in such sum as the county court shall direct, not less than one thousand dollars, with good and sufficient sureties to be approved by such Chief Justice, conditioned, that the owner of such ferry will at all times keep good and sufficient boats for the use of such ferry, and will also keep the banks on each side of the ferry in good repair, and so graded and levelled that the rise shall not exceed two feet in every seven feet from the water's edge to the top of

the bank, and that said ferry shall be well attended at all times, and that he will comply with all the requisitions of the law relating to, or governing ferries; which bond shall be filed and recorded in the office of the clerk of the county court.

Sec. 8. That upon producing the receipt of the county Treasurer for the payment of the tax assessed by the county court for the privilege of such ferry, and executing the bond required by this act, such county court shall grant a license to such applicant for the term of one year from the date of such license; and no license for any ferry that has been, or may hereafter be established, shall be granted, until such payment shall be made and bond executed.

Sec. 9. That in all cases where any person shall obtain a license for a ferry, the clerk of the court shall make out and deliver to such person, a copy of the rates of toll or ferriage established by the court for such ferry, which shall be under his hand and official seal.

Sec. 10. That every owner of a ferry licensed in this State, shall keep a list of the rates of toll or ferriage established for his ferry posted up either at the ferry or ferry house, for the inspection of all persons. If any such owner shall fail or neglect to do so, he shall forfeit and pay the sum of four dollars for every such neglect, which may be recovered before any Justice of the Peace of the county, on the complaint of any person; one half of said amount to go to the county, and the other half to the prosecutor; and every week that he shall so fail or neglect, shall be deemed a separate offence, for which he shall be liable as aforesaid.

Sec. 11. That if any person licensed to keep a ferry shall, on being tendered his lawful fees, refuse or neglect without a reasonable cause, to cross any person, his horse or other property usually transported by such ferry, every such ferryman shall, for every delay of thirty minutes, forfeit and pay to the person injured the sum of two dollars, to be recovered by action before any Justice of the Peace for the county in which the ferry is situated, with costs of suit, and the oath of the party shall be received in evidence of the fact.

Sec. 12. That every licensed ferryman shall at all times keep good and sufficient boats for the use of such ferry, and shall keep the banks on each side of the ferry in good repair, and so graded and levelled that the rise shall not exceed one foot in every seven feet from the water's edge to the top of the bank; and shall give ready and due attendance on all passengers, horses, wagons and other property.

Sec. 13. That if any licensed ferryman shall charge and receive from any person a higher rate of toll or ferriage than has been established for his ferry by the county court, he shall forfeit and pay to such person five dollars for every such offence, to be recovered by action before any Justice of the Peace of the county in which the ferry is established, with costs of suit; and the oath of the complainant shall be received in evidence.

Sec. 14. That if any person shall keep any ferry over any water course, navigable stream, lake or bay in this State, for which he shall charge any person any money or other valuable thing, without complying with the provisions of this act, in relation to paying the tax, obtaining license and entering into bond, he shall forfeit and pay to every other person having a licensed ferry on the same water course, stream, lake or bay, in the same county, five dollars for every person so ferried, and the same sum for every wagon or other article so transported, which may be subject to a separate charge, to be sued for and recovered before any Justice of the Peace of the county, with costs of prosecution; and shall, moreover, forfeit and pay a like sum in like manner to the county, which may be sued for and recovered in like manner by the county treasurer.

Sec. 15. That in all cases where a recovery shall be had against the ferryman, for violation of this act, if, after judgment, execution shall be returned that no estate of such ferryman can be found whereon to levy and make the money demanded in such execution, the Justice to whom such execution is so returned, shall cite the sureties of such ferryman to appear and show cause why judgment should not be rendered against them for the amount of the execution that is not satisfied, and unless such cause is shown, judgment shall be so entered, and execution shall issue therefor.

Sec. 16. That any person injured by breach of the bond of any ferryman, shall have the right to sue thereon in his own name; and no such bond shall be void on the first recovery, but may be sued on from time to time, until the whole penalty is recovered.

Sec. 17. That any person wishing to establish a public ferry, between the regular terms of the county court, may obtain a temporary license for such ferry from the Chief Justice, which shall authorize him to keep such ferry until the next regular term of the county court for the county, and to charge and receive for such time such rates of toll or ferriage as are charged at other ferries on the same water course, stream, lake or bay.

Sec. 18. That the county court of the several counties of this

State, shall have power to assess and collect an annual tax for the privilege of each and every ferry in their county, which tax shall not exceed one hundred dollars per annum.

Sec. 19. That if any water course, navigable stream, lake or bay shall form a portion of the boundary of any county, so one bank shall be in one county and the other in a different county, at the place where it is proposed to establish a ferry, or where a ferry has been established, then application for a license shall be made to the county court of each of said counties; but if only one of said counties will grant a license to the applicant, then he shall have the right to ferry under such license alone, and in such case, neither county court shall assess and collect a tax on such ferry exceeding fifty dollars per annum.

Sec. 20. That an act authorizing and requiring county courts to regulate roads, appoint overseers, and establish ferries, approved December 20th, 1836," with the exception of the 20th and 21st sections thereof, and a "joint resolution defining the powers of the commissioners of roads and revenue, approved June 7th, 1837," and the 5th section of "an act to amend an act organizing Justices' courts, and defining the powers and jurisdiction of the same," approved January 19th, 1841, and "an act to authorize the county courts of Brazoria and Galveston to raise revenue by license on public ferries," approved January 14th, 1843, shall be, and the same are hereby repealed.

Approved, January 23, 1850.

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## CHAPTER LX.

**Joint Resolution providing for the removal of certain Spanish Documents from Nacogdoches County to the State Department.**

Whereas, there are deposited in the office of the county clerk of Nacogdoches county, a number of Spanish documents, which are said to have been found in the office of the former political chief of the department, and the Alcaldes of the municipality of Nacogdoches, which documents may be of value to the State, or to individuals; therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That the Secretary of State be, and he is hereby authorized and required to cause said documents to be delivered by the

county clerk of Nacogdoches county to the order of the Secretary of State, for the purpose of being placed in the State Department for safe keeping and examination, and for such other purposes as may be hereafter directed by law.

Sec. 2. That the sum of fifty dollars, or as much thereof as may be necessary for the transportation of said documents, be, and the same is hereby appropriated out of any funds in the State Treasury not otherwise appropriated, subject to the order of the Secretary of State.

Sec. 3. That this Joint Resolution take effect and be in force from and after its passage.

Approved, Jan. 24, 1850.

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## CHAPTER LXI.

An Act for the relief of the several Sheriffs under the late Republic of Texas.

Sec. 1. Be it enacted by the Legislature of the State of Texas, That the Comptroller of Public Accounts be, and he is hereby authorized to examine the claims and vouchers of the several Sheriffs under the late Republic of Texas, for the sums of money expended by them, and due them as Sheriffs; and after deducting from the amount any payments heretofore made on said claims, allow the balance thereof, or a sufficient amount to cancel and liquidate the claims which the Republic of Texas holds against the said Sheriffs, or any of them.

Sec. 2. Be it further enacted, That if, after the payment of the claims as provided in the foregoing section, there shall still be a balance due the said Sheriffs, or any of them, by the Republic of Texas, it shall be audited and paid in the same manner as other like claims against the said Republic; and that this act take effect and be in force from and after its passage.

Approved, January 24, 1850.

CHAPTER LXII.

An Act authorizing the County Court of Red River County to have the Records in books A, B and C of Probate Records, now in the office of the Clerk of said County, transcribed.

Section 1. Be it enacted by the Legislature of the State of Texas, That the County Court of Red River county be, and they are hereby authorized to employ the county clerk of said county, or some other suitable person to transcribe in a well bound book or books, all the matter or writing contained in books A, B and C, now in the office of the county clerk of said county purporting to be records of the Probate Court for said county.

Sec. 2. Be it further enacted, That when the duplicates of said record books A, B and C, shall have been made, and completed by said county clerk or other person so employed, it shall be the duty of said County Court to examine and compare the duplicates with the originals in open court, and [when] the said duplicates shall have been compared with the originals and found correct, it shall be the duty of said court, to make out a certificate stating that they have examined and compared the said duplicates with the original books A, B and C, and found them to be true and correct copies of the original books, which certificates shall be signed by all the members of said court, who examine the same, and be sworn to before a Judge of the District Court or some Notary Public of said county, which certificate and oath shall be entered of record in said duplicates, and placed on file in the office of said county clerk.

Sec. 3. Be it further enacted, That after said examination shall have been made as specified in the foregoing section, and the certificate of said court entered in said duplicates, the same shall be approved of in open court, which approval shall be entered of record in said duplicates, as well as on the minutes of said court, and attested by the clerk of said court under the seal of the county court of said county of Red River, and it shall be the duty of said court to take and enclose the original books A, B and C, in good strong paper and seal the same, which seal shall not be broken or envelop taken off, but by order of the said District Court.

Sec. 4. Be it further enacted, That all copies made by the recorder of said county of Red River, from said duplicates shall be as valid, and have the same force and effect, as copies from the originals might or could have; and in all courts of record, where it may be necessary to bring the original books A, B and

C, into court, the production of the aforesaid duplicates shall supercede the necessity of producing the original records in said court.

Sec. 5. Be it further enacted, That the County Court of Red River county is hereby authorized to make an allowance to the clerk or other person thus employed to transcribe the aforesaid books A, B and C, to be paid out of the county funds of said county, which allowance shall not exceed ten cents for every hundred words he may transcribe, and two dollars per day during the time of examining and comparing the duplicates with the originals; and that this act take effect and be in force from and after its passage.

Approved, January 24, 1850.

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### CHAPTER LXIII.

An Act supplementary to An Act entitled An Act to locate permanently the seat of justice of Cass county, approved December 27, 1849.

Sec. 1. Be it enacted by the Legislature of the State of Texas, That if from any cause the election authorized by the above recited act to which this is a supplement, should not be held on the first Monday in March, as contemplated by said act, the Chief Justice or Commissioners shall order an election to be held on the first Monday in August next, under the requirements of said act to locate permanently the seat of justice of Cass county.

Sec. 2. Be it further enacted, That this act take effect, and be in force from and after its passage.

Approved, January 24, 1850.

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### CHAPTER LXIV.

An Act to provide for the Enumeration of the Inhabitants of the State of Texas, for the year 1851.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Assessors of each and every county of this State, shall, at the time of assessing taxes, in the year eighteen



hundred and fifty one, take an enumeration of the Inhabitants of their respective counties, to wit: first, the number of qualified electors; second, the number of white males over eighteen, and under forty-five years of age; third, the number of white males under eighteen years of age; fourth, the number of white males over forty-five years of age; fifth, the number of white females; sixth, the number of children under eighteen and over twelve years of age; seventh, the number of children over six and under twelve years of age; eighth, the number of children under six years of age; ninth, the number of slaves, and tenth, the number of free persons of color.

Sec. 2. Be it further enacted, That it shall be the duty of the several Assessors to make out duplicate returns, one of which shall be filed by them in their respective county clerk's office, on or before the second Monday of November in the same year, eighteen hundred and fifty-one, and the other transmitted by mail or otherwise to the seat of government, directed to the Secretary of State.

Sec. 3. Be it further enacted, That the several Assessors shall each receive two cents for each white inhabitant, and one cent for each slave or free person of color, by them enumerated.

Sec. 4. Be it further enacted, That the said Assessors shall each take an oath before some competent authority, to discharge promptly and faithfully the duties required of them by this act, and shall also enter into bond in the sum of five hundred dollars with good and sufficient security, to be approved by the Chief Justice or any two associate county Commissioners of their respective counties, payable to the Governor of the State, and his successors in office; conditioned for the faithful performance of the duties required of them by this act, and which said bonds shall be filed in the office of the county clerk of their respective counties, and if forfeited, recoverable by suit to be instituted by the District Attorney in the District Court.

Sec. 5. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, January 24, 1850.

## CHAPTER LXV.

An Act to permit the County of Fayette to levy and collect a special Tax.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Chief Justice of Fayette county, shall give notice to the citizens of said county, one month before the first Monday in March, in the year eighteen hundred and fifty, that an election will be held on that day by the qualified electors of said county, to determine whether a special tax, not to exceed one half of the State tax shall be levied upon all the citizens and taxable property of the county, for the years eighteen hundred and fifty, and eighteen hundred and fifty-one; and that said election shall be conducted under the law regulating county elections, so far as the same is applicable.

Sec. 2. [Be it further enacted,] That if a majority of all the qualified electors of the county, voting at said election, shall vote in favor of levying and collecting said special tax; then the county court of said county shall direct the assessor and collector of the county to collect said special tax under the law regulating the collection of county taxes, so far as the same is applicable.

Sec. 3. That the County Court shall apply the money so collected to the building of a jail in and for said county, and for no other purpose whatever.

Sec. 4. That this act take effect from its passage.

Approved, January 24, 1850.

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CHAPTER LXVI.

An Act to establish permanently the Seat of Justice of Leon County.

Sec. 1. Be it enacted by the Legislature of the State of Texas, That the seat of justice of Leon county be, and the same is hereby permanently established at Centreville, on the two tracts of land granted to the county by R. J. Townsend and D. C. Carrington.

Sec. 2. Be it further enacted. That the county Commissioners of said county shall, immediately after the passage of this act, proceed to have the town laid off into suitable squares and lots, and after reserving a sufficient number of such lots for coun-

ty purposes, shall sell at public sale, after advertising the same at least twenty days, such a number of said lots, and on such terms as may be deemed by them most beneficial to the interest of the county; the proceeds of such sales to be applied to the erection of public buildings.

Sec. 3. Be it further enacted, That said Commissioners shall, immediately after said lots shall have been surveyed proceed to contract for the erection of county buildings; and when they shall consider the necessary buildings prepared for the transaction of the county business they shall notify the Chief Justice of Leon county, who shall cause the different county officers, together with the papers, records, and other documents belonging to Leon county to be removed to the county seat established by the provisions of the first section of this act; and that all courts for said county required by law to be held at the county seat, shall be held thereat.

Sec. 4. Be it further enacted, That all persons who have made permanent improvements on any lot or lots, in the town of Leona, shall be entitled to receive the same number of lots similarly situated, such persons may own in Leona with improvements thereon, to be selected and conveyed to them by direction of the County Court of Leon county, in the town to be laid off at the county seat pursuant to the provisions of this act; provided, said lots shall not be selected from any fronting on the public square, and that no more than two lots shall be given to any one person in the county seat established by this act.

Sec. 5. Be it further enacted, That all laws or parts of laws contrary to the true intent and meaning of this act be, and the same are hereby repealed, and that this act take effect and be in force from and after its passage.

Approved, January 24, 1850.

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## CHAPTER LXVII.

An Act to provide for holding an Election for the permanent location of the Seat of Government of the State.

Whereas, the constitution provides, that an election shall be held throughout the State, on the first Monday of March, in the year eighteen hundred and fifty, for the permanent location of the Seat of Government of the State, and in case neither place

voted for at said election shall have a majority of the whole number of votes given in, that an election shall in like manner be held on the first Monday of October, in the same year, between the two places having the highest number of votes at the first election: therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That immediately after the passage of this act the Governor shall issue his Proclamation notifying the people of the pendency of said election, and requiring all officers throughout the State, whose duty it is to order and conduct elections, to proceed in regard to said elections as is usual in regular elections for State officers: which Proclamation shall be published until the election, in such newspapers in different sections of the State, as the Governor may select, not exceeding five in number.

Sec. 2. Be it further enacted, That the Chief Justices of the various counties in the State shall, at least ten days previous to the day of election cause notices of the election to be posted up at two of the most public places in each justices precinct in their respective counties, and issue writs of election directed to the presiding officers of the several precincts, requiring said election to be held on the first Monday of March, in the year eighteen hundred and fifty, and returns made to said Chief Justice in the manner, form and time, usual in cases of regular elections. And the said Chief Justices shall at the usual time of opening election returns, open and count the votes of their respective counties, and immediately thereafter forward the result to the Governor of the State.

Sec. 3. Be it further enacted, That it shall be the duty of the Governor, on the first Monday of June, in the year eighteen hundred and fifty, to open and count the said returns, in presence of the Secretary of State, Adjutant General, Commissioner of the General Land Office, and Comptroller of Public Accounts, or any two of them, and such citizens as may choose to be present; and if any of the places voted for shall have a majority of the whole number of votes cast, such place shall be the Seat of Government as provided by the constitution until the year eighteen hundred seventy, unless the State shall be sooner divided. But if neither of the places voted for shall have received such majority, then it shall be the duty of the Governor, to issue another Proclamation, stating that fact, naming the two places that received the highest number of votes at the first election, and requiring a second election to be held on the first Monday of October in the year eighteen hundred and fifty, between the said two places receiving the highest number of votes, which Proclamation shall be published

as before. The second election shall be conducted in the same manner as the first, and the returns made to the Governor as before, who shall proceed on the first Monday of January, in the year eighteen hundred and fifty-one, to open and count the said returns in the presence of the Secretary of State, Adjutant General, Commissioner of the General Land Office, Comptroller of Public Accounts, or any two of them, and such other persons as may choose to be present, as in the first instance, and the place having the highest number of votes shall be the Seat of Government for the time herein before mentioned, as provided by the constitution; and in case of the absence or inability of the Governor to act, on either of the said days named for opening and counting the returns, it shall be the duty of the Secretary of State to perform said service in the presence of the same persons, and in the manner required of the Governor.

Approved, January 24, 1850.

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#### CHAPTER LXVIII.

An Act to remove the Land Office of the Milam Land District from Burleson county to Cameron, in Milam county.

Section 1. Be it enacted by the Legislature of the State of Texas, That it shall be the duty of the District Surveyor of the Milam land district to cause all the records, maps and other documents belonging to, or in any way connected with the land office of said land district, together with the desks, tables, and other furniture belonging thereto, to be removed to the town of Cameron in Milam county, and the said land office shall be kept at said town until otherwise provided for by law.

Sec. 2. Be it further enacted, That all laws and parts of laws conflicting with this act be, and the same are hereby repealed.

Sec. 3. Be it further enacted, That this act shall take effect from and after the first Monday in August next, and not before.

Approved, January 24, 1850.

## CHAPTER LXIX.

An Act supplementary to an act entitled an act to exempt Buildings and Grounds designed and used for purposes of Education or Public Worship from taxation.

Section 1. Be it enacted by the Legislature of the State of Texas, That all buildings, furniture, libraries, philosophical apparatus and lands attached thereto, not exceeding ten acres in each case, owned by, dedicated to, and occupied for charitable or literary associations, while continued in such ownership, dedication or use, shall be exempt from taxation.

Approved, January 24, 1850.

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CHAPTER LXX.

Joint resolution relative to extending the civil jurisdiction of the State of Texas over the south half, and criminal jurisdiction over the whole of Red River.

Section 1. Be it resolved by the Legislature of the State of Texas, That our Senators in the United States Congress be instructed, and our Representatives requested to procure the passage of a law giving to the State of Texas civil jurisdiction over the south half, and criminal jurisdiction over the whole of Red River, from the point where the original boundary line between the United States and the late Republic of Texas strikes said Red River to the one hundredth degree of west longitude from Greenwich.

Sec. 2. Be it further resolved, That the Governor of this State be, and he is hereby requested to transmit to each of our Senators and Representatives in Congress a copy of this resolution.

Approved, January 26, 1850.

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CHAPTER LXXI.

An Act to amend the first section of an act entitled "an act to create the county of Anderson," approved March 24th, 1846.

Section 1. Be it enacted by the Legislature of the State of Texas, That the first section of an act entitled "an act to create

the county of Anderson," be so amended as to read thus: Beginning at a place in the county of Houston, known as Houston's mound, about one mile north of Murchison's Prairie, thence westwardly, by a direct line running through the old Ionie Village on the North Elk Hart Creek, to the east boundary line of Samuel C. Boxe's head-right league; thence south with said line to the southeast corner of said league; thence westwardly with the south boundary line of said league to the Trinity river.

Sec. 2. Be it further enacted, That this act take effect and be in force from its passage.

Approved, January 26, 1850.

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## CHAPTER LXXII.

**An Act to authorize the County Court of Harrison county to have Record-Book B, of bonds, deeds, mortgages and other instruments of writing now in the Clerk's Office of said County transcribed.**

Section 1. Be it enacted by the Legislature of the State of Texas, That the county court of Harrison county be, and they are hereby authorized to employ the county clerk of said county, or some other competent person, to transcribe in a well bound book, or books, all the matter or writing contained in said book B, purporting to be record of deeds, bonds, bills of sale, or other instruments of writing.

Sec. 2. Be it further enacted, That when the duplicate of said book B shall have been completed, it shall be the duty of said court to examine and compare said duplicate with the original in open court, and if found to be a correct copy, they shall make out a certificate, stating that they have examined and compared the said duplicate with the original book B, and found it to be a true and correct copy of the original book, which certificate shall be signed by all the members of said court, (who examined the same,) and be sworn to before some Notary Public of the county, which certificate and oath shall be entered of record, in said duplicate, and placed on file in the county clerk's office.

Sec. 3. Be it further enacted, That after said examination shall have been made, as heretofore specified, and the certificate of said court entered in said duplicate, the same shall be approv-

ed of in open court, which approval shall be recorded in said duplicate, and entered on the minutes of the said court, attested by the clerk thereof, under the seal of the county.

Sec. 4. Be it further enacted, That it shall be the duty of the county clerk, under the direction of the Chief-Justice of said county court, to enclose in a strong and durable envelope of paper or parchment, the original book B, and seal the same and file it in the county clerk's office of said county, the seals and envelope of which shall not be broken, except by order of the county court.

Sec. 5. Be it further enacted, That all copies made by the recorder of said county of Harrison, from said duplicate, shall be as valid, and shall have the same force and effect as copies from the original book might or could have; and in all courts of record where it may be necessary to bring the original book B into court, the duplicate shall be entitled to the same credit, and have the same force and effect on being produced as the original would have had.

Sec. 6. Be it further enacted, That the county court of Harrison county are authorized to make all allowance to the person thus employed to transcribe the aforesaid book, to be paid out of the county funds of said county, which allowance shall not exceed fifteen cents for every hundred words he may transcribe, and three dollars a day during the time of examining the duplicate with the original.

Approved, January 26, 1850.

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## CHAPTER LXXIII.

An Act to extend and define the eastern boundary of Caldwell county.

Section 1. Be it enacted by the Legislature of the State of Texas, That the eastern boundary line of Caldwell county shall be extended and defined as follows: Beginning at the north-east corner of Caldwell county, as heretofore defined; thence running north forty-five degrees east on the line between Bastrop and Travis counties, to the point where it intersects the eastern boundary line of a league of land granted to James S. Montgomery: thence south forty-five degrees east to the southern boundary line of Bastrop county; thence south forty-five degrees west with said



line to the south-west corner of Bastrop county; thence with the western boundary line of said county to the south-east corner of Caldwell county, as heretofore defined.

Sec. 2. Be it further enacted, That John T. Story be, and he is hereby authorized to run and mark the lines agreeable to the provisions of the first section of this act, for which the county court of Caldwell county be, and they are hereby authorized to pay said Story, out of the county treasury, for the performance of said work, at the same rates that district surveyors are allowed for other surveying, as soon as said John T. Story shall return the field-notes to the county court of Caldwell county of the survey as contemplated by the provisions of the first section of this act.

Sec. 3. Be it further enacted, That all laws conflicting with this act be, and the same are hereby repealed, and that this act take effect and be in force from and after its passage.

Approved, Jan. 26, 1849.

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#### CHAPTER LXXIV.

An Act requiring the election of County Treasurers by the People.

Section 1. Be it enacted by the Legislature of the State of Texas, That there shall be elected by the qualified voters of every county of this State, on the first Monday in August eighteen hundred and fifty, and every two years thereafter, a County Treasurer, whose term of office shall be two years from the day of election, and who shall continue to discharge the duties of said office until his successor shall be duly qualified.

Sec. 2. Be it further enacted, That in case of a vacancy in said office from any cause, it shall be the duty of the Chief-Justice of the county in which such vacancy may occur, immediately to order an election to fill the unexpired term for which said officer was elected.

Sec. 3. Be it further enacted, That the County Treasurers of the several counties in this State shall, before entering upon the duties of their office, take the oath prescribed by law for all public officers, and shall enter into bond in such sum not less than two thousand dollars, and with such security as the Chief-Justice of the county court shall direct.

Approved, Jan. 26, 1850.

## CHAPTER LXXV.

Joint resolution making an appropriation for the per diem pay of the members and officers of the present Legislature.

Section 1. Be it Resolved by the Legislature of the State of Texas, That the sum of fifteen thousand dollars, or so much thereof as may be necessary, be, and the same is hereby appropriated for the per diem pay of the members and officers of the present Legislature of this State.

Sec. 2. Be it further resolved, That this Joint Resolution take effect and be in force from and after its passage.

Approved January 26th, 1850.

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CHAPTER LXXVI.

An Act to authorize the County Court of Jasper county to have levied and collected a special county tax, to be applied exclusively to the erection of a Jail and Courthouse for said county.

Section 1. Be it enacted by the Legislature of the State of Texas, That the county court of Jasper county be, and they are hereby authorized and empowered to cause to be levied and collected, upon all the taxable property, and upon all persons liable to pay license or direct taxes within said county, a special tax, not to exceed one half of the State tax upon the same for the year 1849, which, when collected, shall be applied exclusively to the erection of a Jail and Courthouse for said county, and that said court may hold a special session on the 4th Monday in May, 1850, for the purpose of giving effect to the provisions of this act; Provided, that the county court of Jasper county shall first order an election, by giving at least twenty days notice thereof, to ascertain whether the citizens of said county are in favor of levying such tax, and that the same shall not be levied without a majority of those voting shall be in favor of the same.

Approved, Jan. 28, 1850.

CHAPTER LXXVII.

Joint Resolution.—Memorial of the Legislature of the State of Texas to the President of the United States, relative to the vast and numerous depredations committed, and being committed upon the citizens and property of those residing upon the borders and frontiers of Texas, and asking for an increase of the military establishment in Texas, for the due protection of the lives, persons, and property of her citizens.

Whereas, it does appear from the most authentic information, collected in many instances by the committee of the Legislature, upon the sworn testimony of those residing upon the borders and frontiers of Texas, that vast numbers of her citizens have been killed or captured, and that the property of her citizens, to a vast amount, has been stolen and carried away by the Indians in amity and treaty with the United States; and whereas, many and serious depredations are being, and have been committed, as believed by the Legislature, which, from the nature of things, are not now exhibited and shown by the vouchers and testimony embraced in the report of the committee; therefore,

[Section 1.] Be it resolved by the Legislature of the State of Texas, That our Senators in Congress be instructed, and our Representatives requested in the most solemn manner, to present this subject to the consideration and attention of the President of the United States and the Congress, asking full indemnity for the depredations committed by the Indians upon the borders and frontier of Texas, and that an adequate and sufficient force be placed upon the frontier and borders of the State where those depredations have occurred, to protect the lives, persons and property of her citizens thus afflicted—to all which Texas deems herself entitled to by the terms of annexation, the constitution and laws of the United States.

Sec. 2. Be it further resolved, That the Governor of the State be requested to forward a copy of this joint resolution to the President of the United States, and to each of our Senators and Representatives in Congress, together with the report of the joint committee of both Houses on Indian Affairs.

Approved. Jan. 28. 1850.

## CHAPTER LXXVIII.

An Act supplementary to an act entitled "an act to create the County of Ellis."

Section 1. Be it enacted by the Legislature of the State of Texas, That the boundaries of Ellis county be as follows, to wit: Beginning on the west bank of the Trinity river at a point one mile north of Robert H. Porter's house; thence on a straight line to Chambers' Creek, at a point opposite the mouth of Mill Creek; thence south sixty degrees west, to a point thirty-seven miles from the place of beginning; thence north thirty degrees west, to a point directly west of the south-west corner of Dallas county; thence east to the said south-west corner of Dallas county; thence with the southern boundary line of said Dallas county to the Trinity river; thence down said river with the meanderings thereof to the place of beginning.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, January 28, 1850.

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CHAPTER LXXIX.

An Act supplementary to an act entitled "an act to organize the county of Upshur," approved January 26, 1848.

Whereas, the first section of the above recited act appointed Benjamin Fuller, Miles Robertson, J. R. Taylor, F. C. Hagen, B. Gage and H. Page, Commissioners to locate the county seat of said county of Upshur; and whereas, since the appointment of the above named Commissioners, some have ceased to act, in consequence of death, removal, &c.; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That G. C. Patillo, D. F. Bancroft, and F. C. Hollandquest be, and they are hereby appointed Commissioners, in addition to those already appointed, and shall be governed in all respects by the provisions of the act to which this is a supplement.

Section 2. Be it further enacted, That the acts and doings of said Commissioners, in relation to locating and

organizing the county of Upshur, and carrying out the provisions of the above recited act, be, and they are hereby legalized and made valid, as if all the Commissioners had continued to act, and that this act take effect and be in force from and after its passage.  
Approved, Jan. 28, 1850.

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CHAPTER LXXX.

An Act to create Falls County.

Section 1. Be it enacted by the Legislature of the State of Texas, That the territory contained within the following limits: Beginning at the upper corner of league number five, on the west bank of the Brazos river in the name of L. B. Franks; thence north sixty degrees east, fourteen miles; thence south thirty degrees east to the north west boundary of Robertson county; thence along said boundary line to the Brazos river and across the same; thence up the west bank of said river to the north-east corner of league number eight in the name of S. Frost; thence south sixty degrees west to a point from which the south corner of McLellan county, bears north thirty degrees west; thence north thirty degrees west to the said south corner of McLellan county; thence north sixty degrees east to the place of beginning shall constitute a new county, and be called Falls county.

Sec. 2. Be it further enacted, That the old municipal town of Viesca at the falls of the Brazos shall be the county seat for said county until otherwise provided by law.

Sec. 3. Be it further enacted, That the citizens of Falls county are entitled to all the rights, privileges, officers and courts, to which other counties, in similar circumstances are entitled.

Sec. 4. Be it further enacted, That Falls county shall be organized by the proper authorities of Milam county, according to the provisions of an act entitled an act to provide for the organization of new counties, approved March 20, 1848.

Sec. 5. Be it further enacted, That this act shall take effect and be in force from and after its passage.

Approved, January 28, 1850.

## CHAPTER LXXXI.

## An Act to create the County of Kinney.

Section 1. Be it enacted by the Legislature of the State of Texas, That the territory embraced within the following boundaries, to wit: Beginning at the upper corner of Webb county on the bank of the Rio Grande; thence up the Rio Grande, to the mouth of the San Pedro river; thence north forty-five degrees east, ten miles; thence east to the Nueces river; thence down that river, to the upper corner of Webb county; thence with the north-west boundary of the latter county to the place of beginning, shall constitute a county, and shall be called the county of Kinney.

Sec. 2. Be it further enacted, That the town of Eagle Pass, shall be the county seat of the said county of Kinney.

Sec. 3. Be it further enacted, That this act shall take effect and be in force from and after its passage.

Approved, January 28, 1850.

## CHAPTER LXXXII.

## An Act more particularly defining the boundaries of Henderson County.

Section 1. Be it enacted by the Legislature of the State of Texas, That the following shall be the permanent boundaries of Henderson county, to wit: Beginning at the northwest corner of Anderson county; thence with the upper boundary of said county of Anderson to the north-east corner thereof; thence up the Neches river to the south-east corner of A. Sidney Johnston's twelve hundred and [eighty] acre survey; thence west to the Trinity river; thence down said river with its meanders to the place of beginning.

Sec. 2. Be it further enacted, That John Brown, (red) John Ledbetter, Samuel Whitehead, Samuel Huffer, J. B. Luker, Arnham, Avant, Sullivan and Helms, be, and they are hereby appointed Commissioners with authority to select not more than two places to be put in nomination as the county seat of said county, one of which shall be at the center of said county, to be ascertained by actual survey, which survey said Commissioners are hereby authorized to have made, at the expense of the

county, and the other place shall be within three miles of the centre of said county, and the said Commissioners shall then proceed to order an election, which shall be conducted in accordance with, and in every respect governed by, the provisions of an act entitled an "act to create the county of Wood," when the same do not conflict with the provisions of this act.

Sec. 3. Be it further enacted, That the returns of said election shall be made to the Chief Justice of Henderson county; that all laws and parts of laws conflicting with this act, be, and the same are hereby repealed; and that this act take effect and be in force from and after its passage.

Approved, January 28, 1850.

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### CHAPTER LXXXIII.

Joint Resolution to provide for the payment of translating the Laws of the first and second sessions of the Legislature into German, and for printing the same.

Section 1. Be it resolved by the Legislature of the State of Texas, That the sum of two hundred and sixty-four dollars and sixty-seven cents be payed out of any moneys in the Treasury, not otherwise appropriated to H. W. Wagner of Galveston, for translating the laws of the first and second Legislature, and revising the proofs of the same, according to the contract made with said H. W. Wagner, by the Executive of the State, and that the further sum of one hundred and eleven dollars and eighty-eight cents be paid out of any moneys in the Treasury not otherwise appropriated, to C. H. Buckner, for printing the same in accordance with the contract made with him by the Executive of the State for the same.

Sec. 2. Be it further resolved, That this joint resolution take effect and be in force from and after its passage.

Approved, January 29, 1850.

## CHAPTER LXXXIV.

[*Special.*]

An Act to incorporate the town of Tyler in Smith County.

**Section 1.** Be it enacted by the Legislature of the State of Texas, That the citizens of the town of Tyler in Smith county, be, and they are hereby declared a body politic and corporate, under the name and style of the corporation of the town of Tyler, and by that name shall have the power to sue and be sued, plead and be impleaded, and to hold and dispose of real and personal property; provided, such real property is situated within the limits of said corporation.

**Sec. 2.** Be it further enacted, That it shall be the duty of the citizens of said corporation, to elect a Mayor, eight Aldermen, a Collector and Constable; and a Treasurer and Secretary shall be selected by said aldermen from their own body, the Treasurer and Collector being required to give bond with security, to be approved of by the presiding officer, for the faithful performance of their duties, and to make reports when required by the Mayor, or board of Aldermen, and the Mayor shall have power when necessary, to suppress riots and disturbances, and to call out the citizens of said corporation for the purpose of restoring order.

**Sec. 3.** Be it further enacted, That the first election shall be held under the direction of the Chief Justice of said county—after having given ten days notice thereof, and annually afterwards under the direction of the Mayor at least ten days before the expiration of his term of office; and that in case of death or resignation, the vacancy or vacancies shall be filled by new elections, to be ordered by the Mayor, and in case the office of Mayor shall be vacant, then the Aldermen shall elect one of their own body to act as Mayor until the next annual election.

**Sec. 4.** Be it further enacted, That no person shall be eligible to any office under the provisions of this charter, who is not a citizen of this State, and resident within the limits of the corporation, nor shall any person have a right to a vote for officers, who is not a citizen and resides within its limits.

**Sec. 5.** Be it further enacted, That the Mayor and board of Aldermen of said corporation, shall have power to pass such rules and ordinances as may be necessary for the regulation of the police, and the preservation of order within the corporation limits, to levy taxes for the removal of nuisances and keeping the streets in good order, and to prescribe penalties for the violation of the ordinances and by-laws of the corporation; Provided, that in no case such penalty shall exceed one hundred dollars.



Sec. 6. Be it further enacted, That the limits of said corporation shall extend over one hundred acres of land, in a square laid off so as to leave the public square of said town of Tyler in the centre of said corporation limits.

Sec. 7. Be it further enacted, That the Mayor with a majority of said Aldermen shall constitute a quorum for the transaction of business, and shall enact and enforce such rules and regulations as they may deem necessary for the government of said corporation; Provided, the same do not conflict with the constitution and laws of this State.

Approved, January 29, 1850.

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CHAPTER LXXXV.

An Act to repeal An Act authorizing the appointment of a Fiscal Agent, and for the better security of the revenue, approved March 20, 1848.

Section 1. Be it enacted by the Legislature of the State of Texas, That the above recited act, be, and the same is hereby repealed; and that this act take effect and be in force from and after its passage.

Approved, January 29, 1850.

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CHAPTER LXXXVI.

An Act more particularly defining the boundaries of Van Zandt County.

Section 1. Be it enacted by the Legislature of the State of Texas, That the following be, and they are hereby established as the permanent boundaries of Van Zandt county, to wit: Beginning on the Neches river at the south-east corner of A. Sidney Johnston's twelve hundred and eighty acre survey; thence west to the south-east corner of Kaufman county; thence north with the eastern boundary line of said Kaufman county to the southern boundary of Hunt county; thence east to the south-east corner of said Hunt county; thence south to the Sabine river; thence across said river and down with its meanders to the north-west corner of Smith county; thence south with the western

boundary line of said Smith county to the Neches river; thence across said river and down with its meanders to the place of beginning.

Sec. 2. Be it further enacted, That William Allen, Benjamin Bruton, James N. Harrison, Joseph Ausbury, John Magby, senior, John W. Chrisman, Wiley, Austin and McInturf, be, and they are hereby appointed Commissioners with authority to select, not exceeding three places, to be put in nomination as the county seat of said county, one of which places shall be at the centre of the county, to be ascertained by actual survey, which survey the said Commissioners are hereby authorized to have made at the expense of the county, and the other two places shall be within three miles of the centre of said county; and the said Commissioners shall then proceed to order an election, which shall be conducted in accordance with, and governed in every respect by, the provisions of an act entitled "an act to create the county of Wood," when the same do not conflict with the provisions of this act; and the county seat of said Van Zandt county thus established, shall be known by the name and style of Canton.

Sec. 3. Be it further enacted, That the returns of said election shall be made to the Chief Justice of Van Zandt county; that all laws and parts of laws conflicting with this act, be, and the same are hereby repealed; and that this act take effect and be in force from and after its passage.

Approved, January 29, 1850.

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## CHAPTER LXXXVII.

### An Act to create the Twelfth Judicial District.

Section 1. Be it enacted by the Legislature of the State of Texas, That the following named counties shall compose the Twelfth Judicial District, to wit: Cameron, Starr, Webb and Kinney.

Sec. 2. Be it further enacted, That so much of the fourth section of an act to establish the Judicial Districts of the District Courts, approved February 26, 1848, as includes the counties of Cameron, Starr, Webb and Kinney, in the fourth Judicial District, be, and the same is hereby repealed.

Sec. 3. Be it further enacted, That this act take effect and be in force from and after the first day of August, eighteen hundred and fifty.

Approved, January 29, 1850.

CHAPTER LXXXVIII.

Resolutions of the Legislature of the State of Texas on the subject  
of Slavery.

Resolved by the Legislature of the State of Texas, That the territories of the United States, belong to the several States composing the Union, and are held by them as their joint and common property.

Resolved, That Congress, as the joint agent and representative of the Union, has no right to make any law, or do any act whatever, that shall directly or by its effects, make any discrimination between the States of this Union, by which any of them shall be deprived of its full and equal right in any territory of the United States, acquired or to be acquired.

Resolved, That the enactment of any law which should directly or by its effects, deprive the citizens of any of the States of this Union, from emigrating with their property into any of the territories of the United States, will make such discrimination, and would therefore be a violation of the constitution, and the rights of the States from which such citizens emigrated, and in derogation of that perfect equality which belongs to them as members of the Union, and would tend directly to subvert the Union itself.

Resolved, That as a fundamental principle in our political creed, a people in forming a constitution have the unconditional right to form and adopt the government, which they may think best calculated to secure liberty, prosperity and happiness; and that in conformity thereto, no other condition is imposed by the Federal Constitution on a State, except that its constitution be republican, and that the imposition of any other by Congress, would not only be in violation of the constitution, but in direct conflict with the principle upon which our political system rests.

Resolved, That the abolition of slavery in the District of Columbia, involving as it does, an exercise of power not granted by the constitution, and designed as it is, as a means of affecting the institution of slavery in the States, and against which it is aimed as a blow, should be resisted on the part of the South, by whatever means are best adapted to the protection of the constitution, the defence of herself, and the preservation of the Union.

Resolved, That knowing no party names or political divisions upon questions involving in their nature and consequences, the character, property and political existence of those we represent, we are prepared to make common cause with our sister States of

the South in defence of the Federal Constitution; that our rights being identical, we will cordially co-operate with the rest of the South, in any measure of defence of our constitutional rights, that may be best calculated to preserve their integrity.

Resolved, That the Governor be required to transmit a copy of these Resolutions to the Governor of each of the States of the Union, and to each of our Senators and Representatives in Congress.

Approved, January 30, 1850.

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## CHAPTER LXXXIX.

An Act to extend the jurisdiction of the County of Medina for certain purposes.

Section 1. Be it enacted by the Legislature of the State of Texas, That the jurisdiction of the county of Medina, be, and the same is hereby extended for judicial purposes, over that portion of the county of Bexar contained within the following limits, to wit: commencing at a point on the Medina river opposite to where the lower line of Medina county strikes said river; thence running north twenty miles; thence west to the Medina river, to meet the upper line of said county.

Sec. 2. Be it further enacted, That the citizens of Bexar county who reside within said limits, and wish to avail themselves of the provisions of this act, shall file their names and intention so to do, in the offices of the county clerks of Bexar and Medina counties within three months after the passage of this act; and all persons who shall hereafter settle within said limits, shall so register their names and intentions within three months from the time of their settlement.

Approved, February 1, 1850.

CHAPTER XC.

**An Act to remove from the possession of the County Clerk of Webb County, all books, papers, documents and other property, belonging or in any way appertaining to the City of Laredo, to the City Council.**

Section 1. Be it enacted by the Legislature of the State of Texas, That all books, papers, documents, or other property now in possession of the county clerk of Webb county, and which formerly belonged to the town of Laredo, be, and the same are hereby made transferable to the possession of the City Council of said city of Laredo.

Sec. 2. Be it further enacted, That it is hereby made the duty of the said county clerk, to carry into execution the provisions of this act.

Sec. 3. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, February 1, 1850.

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CHAPTER XCI.

**An Act to revive and amend "an act to locate permanently the Seat of Justice for the County of De Witt, approved March 9, 1848."**

Section 1. Be it enacted by the Legislature of the State of Texas, That an act entitled "an act to locate permanently the Seat of Justice for the county of De Witt, approved March 9th, 1848," be and the same is hereby revived.

Sec. 2. Be it further enacted, That the first section of the above recited act, shall be amended so as to read as follows: Section 1. Be it enacted by the Legislature of the State of Texas, That there shall be held an election on the first Monday in August, in the year eighteen hundred and fifty, in the said county of De Witt, for the election of a suitable place for the permanent location of the county seat for said county; and it shall be the duty of the Chief Justice of De Witt county to give public notice of said election, and to issue orders for holding the same, at the different precincts in said county, at least ten days previous to said election.

Sec. 3. Be it further enacted, That the fifth section of said

act shall be so amended, as to read as follows: Section 5. Be it further enacted, That all persons who are legal and qualified voters for State and County officers in said county, shall be deemed qualified voters for the location of said county seat.

Sec. 4. Be it further enacted, That all laws, and parts of laws conflicting with the provisions of this act, be, and the same are hereby repealed.

Approved, February 1, 1850.

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## CHAPTER XCII.

Joint Resolution making provisions for surveying a certain quantity of University Land.

Whereas, by an act entitled "an act appropriating certain lands for the establishment of a general system of education," approved January 26, 1839, authorizing and requiring the President of the Republic of Texas to employ some county or district surveyor to survey fifty leagues from any of the vacant or unappropriated lands of the Republic, for the endowment of two Colleges or Universities; and whereas, it is ascertained that the field-notes of leagues numbers one, two and three, University lands, purporting to have been surveyed in the District of Nacogdoches, in the year 1839, and now situated in the counties of Rusk and Smith, as represented on the map in the Land Office, have not been returned in accordance with the provisions of the above recited act; and whereas, since the date of the aforesaid locations, the land above described, in consequence of there being no record, has been surveyed and recorded in the respective counties where the land is situated, and a number of said locations patented in good faith; therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to employ some competent surveyor to survey three leagues, from any of the vacant or unappropriated lands in the State, in lieu of said leagues numbers one, two and three, University land, hitherto located in the District of Nacogdoches, and said surveyor shall be entitled to the same fees and governed in all respects by the provisions of the above recited act.

Sec. 2. Be it further resolved, That the Commissioner of the

General Land Office be, and he is hereby authorized and required to have surveyed the number of leagues named in the fourth section of the above recited act, provided the same has not been surveyed and returned to the Land Office according to law.

Sec. 3. Be it further resolved, That the sum of two hundred dollars, or as much as may be necessary, is hereby appropriated, and the Commissioner of the General Land Office authorized to draw upon the Treasurer of the State for the same, to carry out the provisions of this resolution, and that this joint resolution take effect and be in force from and after its passage.

Approved, Feb. 1, 1850.

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### CHAPTER XCIII.

An Act to establish the price of Land Certificates to be issued by the Commissioner of the General Land Office.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office of this State be, and he is hereby authorized and required to demand and receive, except in cases otherwise directed by any act of the Legislature, of each and every applicant for a land certificate, under the provisions of any act of the Legislature, the following fees, viz: For a league and labor of land, five dollars; for any quantity less than a league and labor, and greater than one-third of a league, four dollars; for one-third of a league, three dollars; for any quantity less than one-third of a league, two dollars: said fees to be paid in par money, and paid into the State Treasury quarterly.

Approved, Feb. 1, 1850.

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### CHAPTER XCIV.

Joint resolution authorizing the Governor to subscribe for two hundred and fifty copies of the second and third volumes of the decisions of the Supreme Court of this State.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Governor be, and he is hereby authorized and required to subscribe for two hundred and fifty copies of the se-

cond and third volumes of the decisions of the Supreme Court of this State, now being prepared by the reporter appointed by said court; provided the cost shall not exceed five dollars per volume.

Sec. 2. Be it further resolved, That a sufficient amount be, and the same is hereby appropriated to pay for said reports, which shall be paid on the warrant of the Comptroller, out of any money in the Treasury not otherwise appropriated, whenever the Governor shall certify that said reports have been delivered at the State Department of this State, bound in law calf, and executed in a style equal to that of the first volume of said reports.

Approved, Feb. 2, 1850.

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## CHAPTER XCV.

Joint resolution relative to the removal of obstructions to the navigation of Red River.

Whereas, there exists an obstruction to the free and successful navigation of Red River, known as the Red River Raft, situated in the State of Louisiana, and entirely beyond the limits and control of this State; and, whereas, an improvement of the navigation of said river, by the permanent removal of said Raft, is of paramount importance to the interest, commercial advancement and agricultural prosperity of Texas, as well as of Arkansas and Louisiana; therefore,

Section 1. Be it Resolved by the Legislature of the State of Texas, That this State hereby consents, agrees and requests that the State of Louisiana enact some law having for its object the permanent removal of the obstruction to the navigation of Red River occasioned by said Raft, by incorporating a company or companies for that purpose, allowing the privilege of levying a just and equitable toll or per centage on all commerce, or articles of freight passing through the same, after the obstructions shall have been removed, for such period of time as shall be deemed sufficient to remunerate such company or companies; and that the consent of the State of Texas is given to levy any reasonable tax upon her commerce for the term of 15 years, and not to exceed ten cents per bale of cotton, or five cents per barrel by measurement of other freight, in conformity to any act the State of Louisiana may



deem preferable to effect the object herein contemplated, and so much desired; provided, that the rate of tolls or tax on commerce or articles of freight, be uniform; and provided further, that the citizens of the State of Texas be authorized to subscribe for, and hold stock in such company as may be incorporated under the provisions of this act.

Sec. 2. Be it further resolved, That his Excellency, the Governor, be requested to forward a copy of this resolution to the Governor of the State of Louisiana, as soon as practicable.

Approved, Feb. 2, 1850.

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## CHAPTER XCVI.

An act to provide for distributing the reports of the Supreme Court, the Laws of the State, and the Journals of the Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That it shall be the duty of the Secretary of State to distribute the reports of the Supreme Court, and laws passed by each session of the Legislature, the Journals of each session of the Senate and House of Representatives, and all editions of any Digest or revision of the laws of the State, whether such books shall be subscribed for or published by the State, in the following manner:

Sec. 2. Be it further enacted, That two copies of each volume of the reports of the Supreme Court shall be forwarded to the Chief Justice of each county, who shall deposite one copy thereof in the office of the Clerk of the County Court, and the other in the office of the Clerk of the District Court, for the use of said courts respectively.

Sec. 3. Be it further enacted, That a sufficient number of copies of the volume of the laws of a general nature, of each session, shall be forwarded to the Chief Justice of each county, to furnish one copy to each Judge of the Supreme and District Courts, one copy to each Chief Justice, to each Clerk of the Supreme, District and County Courts, to each Sheriff and Justice of the Peace, and to each member of the Legislature by which they were passed, that may be a resident of said county; and it shall be the duty of said Chief Justice to deliver one of said copies to each of said officers who may reside in his county.

Sec. 4 Be it further enacted, That a sufficient number of copies of the volume of laws of each session, for private relief, and laws incorporating towns, cities, institutions of learning and private associations, and of the Journals of each House of the Legislature of each session, shall be forwarded to the Chief Justice of each county, to furnish one copy of each of said books to the Clerk of the County Court, and one copy to each member of the Legislature at such session, who resides in such county; and it shall be the duty of said Chief Justice to deliver one copy of each of said books to each of said persons resident in his county.

Sec. 5. Be it further enacted, That whenever a Digest or revision of the laws of the State has been, or shall be subscribed for, or published by the State, a sufficient number of copies of each volume thereof shall be forwarded to the Chief Justice of each county, to furnish one of said copies to each Judge of the Supreme and district Courts, to each Clerk of the Supreme, District and County Courts, and to each Justice of the Peace that may be a resident in said county; and it shall be the duty of said Chief Justice to deliver one copy of each of said volumes to each of said officers that may reside in said county.

Sec. 6. Be it further enacted, That whenever the Chief Justice of any county in this State shall deliver any of the books named in this act to any Judge of the Supreme or District Court, to any Clerk of the Supreme, District or County Court, to any Sheriff or Justice of the Peace, he shall take the receipt of such officer for the same, and shall deposite said receipt in the office of the Clerk of the County Court, and said books shall be deemed to belong to the office of said officer to whom they are delivered; and shall, at all reasonable hours, be subject to the inspection and examination of any citizen of this State; and should any of said officers fail or refuse to deliver any of said books to his successor in office, when demanded by him, the officer so failing or refusing shall be liable to pay such successor the costs and charges that may be necessary to supply the office of such successor with any of said books that he shall so fail or refuse to deliver.

Sec. 7. Be it further enacted, That the Secretary of State shall also deliver to each of the Executive officers at the seat of Government, one copy of each volume of the public and private laws of each session of the Legislature, and one copy of each volume of any edition of a digest or revision of the laws of the State, whether such books shall be subscribed for or published by the State, which shall belong to said officer; and the officer receiving any such volume, shall be bound to deliver it to his suc-

cessor, and shall be liable to pay his successor the costs and charges that may be necessary to supply the office with any book he may neglect so to deliver.

Sec. 8. Be it further enacted, That this act shall take effect from and after its passage,

Approved, Feb. 2, 1850.

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## CHAPTER XCVII.

An act to provide for the relief of the sufferers by the destruction of the records and certificates of the Land Office in the District of Rusk.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Chief Justice and any two County Commissioners of the county of Rusk be, and they are hereby constituted a board of commissioners to hear proofs, and to determine the entry, location or survey of any land certificates or land scrip, filed in the surveyor's office of Rusk Land District, which were destroyed or stolen in the recent destruction of the records of said office, and the date of filing the same, and upon full and satisfactory proof of such entry, location or survey of such certificate, shall cause said entry to be recorded anew in said office, with a description of the land so entered or located, and the date of said entry as near as the same can be ascertained; which entry so recorded shall conform in all respects substantially to the original entry destroyed, if the same can be identified by proof.

Sec. 2. Be it further enacted, That any person, whether the original grantee or assignee of any land certificate or land scrip so destroyed or stolen, may, in person, or by agent or attorney, apply to said board of commissioners, and upon affidavit in writing of the person so applying, that said certificate or scrip was on file in said office at the time of the destruction of said records, and that the same was entered or located upon any certain tract of land, it shall in such case be the duty of said board to determine said application upon oral testimony upon oath, or any records remaining in said office, or both, as the case may require; and upon the satisfactory establishment of such entry, location or survey, the same shall be as valid from the date of such original entry, location or survey as if the same had never been de-

stroyed; and shall be recorded anew as provided in the first section of this act.

Sec. 3. Be it further enacted, That if any controversy shall arise between two or more claimants of the same entry, location or survey, said commissioners shall have the power of determining from the evidence to whom said entry, location or survey belongs; and the parties, claimants, shall have the privilege to demand a jury of six men to try any such issue, upon whose verdict the commissioners shall render judgment accordingly; any such jury demanding, shall be summoned and governed according to the provisions of the law regulating juries in cases arising before a Justice of the Peace; provided, that any party feeling himself aggrieved, shall have the right of appeal to the District Court, from any judgment rendered by said commissioners, upon the same terms and conditions that appeals are allowed from a Justice of the Peace.

Sec. 4. Be it further enacted, That the county clerk of Rusk county shall be the clerk of said board of commissioners, and shall keep a correct journal of their proceedings; and for all process issued by him, and other duties performed under the provisions of this act, shall receive the same fees as district clerks for similar services, to be paid by the unsuccessful party in cases of controversy, or by the applicant in other cases, and shall have power to issue execution to collect the same.

Sec. 5. Be it further enacted, That said board shall have power to act at such times, and as often as the business and duties they are required to perform may require, until the first day of September, A. D. 1850, and no longer; and at the expiration of the period herein limited, shall deposite in the surveyor's office of Rusk land district the journal of their proceedings, and a correct list of the entries, locations and surveys established before them. Said board shall be entitled to receive three dollars for each entry, location or survey submitted to their examination, to be paid by the party filing the application, which sum shall be equally divided between all the members of said board.

Sec. 6. Be it further enacted, That when any duplicate of an original lost certificate was lost, stolen or destroyed at the time of the destruction of the records of said office, that the original grantee of said certificate, his or her heirs or assigns, or his or their agent or attorney, shall be entitled to receive from the proper office a triplicate of said original certificate, upon complying with the existing regulations of law in procuring duplicates, and filing with said application for such duplicate an additional affidavit, that such duplicate was lost, stolen or destroyed at the time

of the destruction of said records, and that the same was on file in said office at that period.

Sec. 7. Be it further enacted, That all persons who may hereafter receive duplicate or triplicate certificates for head-right, bounty warrants, donation or land scrip lost, stolen or destroyed at the time of the records aforesaid, or their agents, attorneys or assignees, shall have the period of three months after the period limited for the investigation of said board, within which to file and apply the same to any entry, location or survey established in their favor.

Sec. 8. Be it further enacted, That this act shall take effect, and be in force from and after its passage.

Approved, Feb. 2, 1850.

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## CHAPTER XCVIII.

### An Act to create the County of Wood.

Section 1. Be it enacted by the Legislature of the State of Texas, That the following be, and they are hereby established as the permanent boundaries of a new county, to be known and called by the name and style of Wood county, to wit: Beginning at the south-west corner of Hopkins county; thence running south to the main Sabine river; thence down said stream with its meanders to the south-west corner of Upshur county; thence north to the north-west corner of said county of Upshur; thence west along the southern boundaries of Titus and Hopkins counties to the place of beginning.

Sec. 2. Be it further enacted, That Gilbert Yarbrough, Joseph Fisher, George Greer, Henry Stout and Reuben Ellege, be, and they are hereby appointed Commissioners, with authority to select not exceeding three places to be put in nomination as the county seat of said county, one of which shall be at the centre of said county, to be ascertained by actual survey, which survey, the said Commissioners are hereby authorized to have made at the expense of the county, and the other two places shall be within three miles of the centre of said county; and the said Commissioners shall then proceed to order an election between the different places put in nomination for the county seat, of said county, by giving a written notice to be posted up at not less than five places in said county, for the term of one month, which notice shall specify the different places put in nomination; and the

election shall be governed according to the laws regulating elections generally, at [and] the returns made to a Commissioner herein appointed, at a day and place to be named in the writs of election, not to exceed ten days from and after the day of election; and said election returns shall not be opened by less than a majority of said Commissioners, when if any place nominated, at or within three miles of the centre, shall receive a majority of all the votes polled, it shall be duly declared to [be] the county seat of said county, by said Commissioners; but if no place receive a majority of all the votes given, then the said Commissioners shall put in nomination the two places that receive the highest number of votes at the first election, giving fifteen days notice of said election by posting up notices at not less than five public places in said county, the result of which shall be ascertained as in the first election, provided for in this act; and the place receiving the highest number of votes shall be declared by said Commissioners the county seat of said county, and the said Commissioners are hereby required to order the first election contemplated by this act, to be held on the first Monday of June next, or as soon as this act shall come to their knowledge.

Sec. 3. Be it further enacted, That the Commissioners herein appointed, are required to take into consideration, in the nomination of places for said county seat, donations in land or money as well as eligibility of situation and advantages of timber and water.

Sec. 4. Be it further enacted, That should said Commissioners select a tract of vacant and unappropriated land, on which to locate said county seat, they shall proceed to condemn to the use of the county, a quantity of not more than three hundred and twenty acres of the same, and this act shall be a sufficient authority for any authorized surveyor to survey for said county the amount of land pointed out by said Commissioners, not to exceed three hundred and twenty acres in a square form, if pre-existing lines will admit of that shape; and when said Commissioners, their successors or agent, shall present to the Commissioner of the General Land Office, the receipt of the State Treasurer for the sum of fifty cents an acre in gold or silver, for the amount of land contained in the survey authorized by this act to be made, then the said Commissioner of the General Land Office shall issue a patent to the county of Wood for said land.

Sec. 5. Be it further enacted, That the said Commissioners or their successors, or a majority of them, be, and they are hereby authorized and required to lay out a town on said tract, to be known and called by the name and style of the town of Quit-

man, reserving a suitable public square for a courthouse, and suitable lots for a jail and such other public buildings, as they may deem necessary for the use of the county, and to sell the other lots and lands to the highest bidder, at such time or times, and on such terms and conditions as they may deem best for the interest of the county; the proceeds of which sales shall be applied to the erection of public buildings for the use of the county, by said Commissioners or their legal successors; Provided, that after the erection of **such suitable public buildings**, the remainder of the proceeds derived from the sale of lots and lands may be transferred to the ordinary county fund.

Sec. 6. Be it further enacted, That the said Commissioners shall at their first meeting, select from among themselves, a presiding officer, who, when elected, shall have power to convene the other Commissioners to transact any business required of them, under the provisions of this act, a majority of whom in all cases may act, and said Commissioners, before they enter upon the discharge of the several duties herein required, shall take an oath faithfully and impartially to discharge the same, before some acting Justice of the Peace, in and for said county.

Sec. 7. Be it further enacted, That whenever the County Court of Wood county shall be properly organized, it shall be the duty of the Chief Justice to notify the Commissioners herein appointed, to come forward and make a settlement with the County Court, and a surrender of their books as Commissioners of said county, together with a full and fair statement of all the sales made, moneys received and moneys paid out, and thereafter their authority as Commissioners shall cease, and their duties shall devolve upon the County Court.

Sec. 8. Be it further enacted, That the citizens of Wood county are entitled to all the privileges, officers and courts, that other counties in this State are entitled to.

Sec. 9. Be it further enacted, That it shall be the duty of the Chief Justice of Van Zandt county, at the time he orders the election for county officers of Van Zandt county, for the regular election in August, in the year eighteen hundred and fifty, to order also the election of all county officers of Wood county, and the votes polled in Wood county shall be returned to the Chief Justice of Van Zandt county, who shall issue certificates of election to the officers elect, of Wood county, at the time and in the manner that he is required to issue the certificates of election to the officers of Van Zandt county.

Sec. 10. Be it further enacted, That the Commissioners herein appointed, shall be allowed one dollar and fifty cents per day,

to be paid out of the county treasury of Wood county, for each and every day they may be necessarily employed in the discharge of the duties herein assigned them.

Sec. 11. Be it further enacted, That this act shall take effect and be in force from and after its passage.

Approved, February 5, 1850.

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## CHAPTER XCIX.

An Act to authorize the Commissioner of the General Land Office to issue patents on certificates issued by the Board of Land Commissioners of Robertson county, under certain restrictions.

Whereas, it appears that the clerk of the Board of Land Commissioners for Robertson county, has failed and neglected to make due returns to the Commissioner of the General Land Office, of the certificates issued by said board; and whereas, it further appears that the records of the board of Land Commissioners aforesaid, have been left in an imperfect and informal manner, inasmuch as said records do not exhibit the numbers and dates of the certificates, issued by said board, together with the quantities of land for which said certificates were issued; by reason of which neglect and informality in said records, returns cannot now be made in due form to the Commissioner of the General Land Office, of the certificates issued by said board; and whereas, by reason of the neglect and informality aforesaid, many citizens to whom certificates were issued by said board have been prevented from receiving titles for the lands located and surveyed by virtue of said certificates, although (as would appear from the records of the board of Land Commissioners aforesaid,) said citizens have made all proof required of them by law, and are therefore justly entitled to the lands claimed by virtue of the certificates aforesaid; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That whenever application shall be made for patents by virtue of certificates issued by the board of Land Commissioners for Robertson county, and where the name of the person to whom said certificate was issued shall appear on the certified transcript



or copy of the records of said board of Land Commissioners now on file in the General Land Office, that patents shall issue in the same manner, and under the same regulations as though the records of the board of Land Commissioners aforesaid, had been kept in proper manner, and returns made in due form to the Commissioner of the General Land Office of the certificates issued by said board.

Sec. 2. Be it further enacted, That whenever any person shall apply for a patent, by virtue of any certificate issued by the board of Land Commissioners for Robertson county, when the name of the party entitled and mentioned in the certificate, appears on the list of certificates returned to the General Land Office, and the list does not specify the number of the certificate, or the quantity of land to which the party was entitled, the applicant for a patent shall be entitled to the same, according to the provisions of law, upon filing with his application in the General Land Office, the affidavit of the party, to whom the certificate was granted, deposing that the certificate was genuine, that the same was issued by the board of Land Commissioners for the county of Robertson, and that the said party is, in truth and justice, and under the laws of the land, entitled to the quantity of land specified in said certificate, in case the party to whom the certificate was granted, has departed this life, or his residence is unknown; then the heirs or legal representatives, or the assignee may file them in the same manner, and with the same effect, the affidavit of two respectable witnesses, stating the same facts as are required by the party to whom the certificate was issued, and that they know the party to whom the certificate was issued, and that his residence is unknown at the time of making the affidavit: provided that the provisions of this act shall not extend to any certificate issued by any board of Land Commissioners of Robertson county, previous to the first day of August, one thousand eight hundred and forty-two; and that this act be in force and take effect from and after its passage.

Approved, February 5, 1850.

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## CHAPTER C.

An act to provide for the payment of Grand and Petit Jurors.

Section 1. Be it enacted by the Legislature of the State of Texas, That all fines imposed on Jurors, and all fines imposed

for contempt of court, by any District Court of this State, shall be paid to the clerk of said court.

Sec. 2. A jury fee of three dollars upon all causes now pending in any District Court of this State, except criminal causes, shall be paid to the clerk of said court, before final judgment shall be entered. in any such cause.

Sec. 3. A jury fee of three dollars upon all causes that may hereafter be commenced, in any District Court of this State, or that may hereafter be brought to any District Court of this State, by appeal or otherwise, except criminal causes, shall be paid to the clerk of said court, before final judgment shall be entered in any such cause.

Sec. 4. In all criminal causes now pending in any District Court of this State, in which a conviction shall be had, a jury fee of three dollars, shall be taxed in the bill of costs, which fee, when collected, shall be paid to the clerk of said court; provided, that in no case, shall the State be chargeable with such fee.

Sec. 5. In all criminal causes that may hereafter be commenced in any District Court of this State, or that may hereafter be brought to any District Court of this State, by appeal or otherwise, in which a conviction shall be had, a jury fee of five dollars shall be taxed in the bill of costs, which fee, when collected, shall be paid to the clerk of said court; provided, that in no case shall the State be chargeable with such fee.

Sec. 6. Should any clerk of the District Court in this State, enter a final judgment in any cause, except criminal causes, before he shall have received the jury fee imposed by this act, such clerk shall be liable for and shall account for such fee in like manner, as if he received the same, and should the plaintiff in such suit, fail to pay the jury fee in any case, when a verdict has been rendered, on or before the last day of the term at which said verdict may be rendered, a judgment of non-suit shall be entered against the plaintiff unless the defendant shall pay the jury fee.

Sec. 7. It shall be the duty of every Sheriff or other officer in this State, to pay over all fines imposed on jurors, and all fines imposed for contempt of court by any District Court, and all jury fees in criminal causes that may be collected by him, to the clerk of the District Court, to whom the same is payable, and if any Sheriff or other officer, shall fail so to pay over any such fine or fee so collected by him, or shall fail to use reasonable diligence to collect the same when authority for the collection thereof shall have been placed in his hands, such Sheriff or other officer, and the securities on his bond, shall be liable for the amount of such fine or fee, and damages thereon at the rate of ten per cent per

month, from the time such fine or fee was collected, or from the time the same might have been collected by the use of reasonable diligence; which may be recovered by the clerk of the District Court in which such fine was imposed, by suit against such Sheriff or other officer, and the securities on his bond, before any Justice of the Peace, or court having jurisdiction thereof; and it shall be the duty of each clerk of the District Court to bring such suit whenever he knows, or is informed that any Sheriff or other officer, and the securities on his bond, are liable to be sued by him.

Sec. 8. That all fines imposed on jurors, and all fines imposed for contempt of court by any District Court of this State, and all jury fees imposed by this act, shall constitute a jury fund, to be disposed of by the clerk of the District Court in the manner provided for in this act; and said clerk, and the securities on his bond, shall be liable for any misapplication of said fund by said clerk, or for any failure by said clerk, to apply the same, as directed by this act.

Sec. 9. On the last day of each term of the District Court in every county of this State, it shall be the duty of the clerk of said court, to make out a statement in writing, which shall set forth all moneys received by him, or for which he is liable under the provisions of this act, up to the date of such statement and since his previous statement, if any such has been made, and also the name of each juror, who has served at such term, the number of days he served, and the amount due him for such service, at the rate of one dollar and twenty-five cents per day, which statement shall be examined by the judge holding such court, and if found to be correct, shall be approved and signed by him; should said judge consider said statement to be erroneous, he shall make such corrections therein as he may think necessary, and shall then approve and sign the same; which statement when so approved and signed, shall be recorded by the clerk in the minutes of the court.

Sec. 10. It shall be the duty of each clerk of the District Court, after the statement provided for in the preceding section, shall have been approved, signed and recorded, to pay to each juror who has served at such term, the amount due him for such service, if there shall be a sufficient amount of money in his hands, received under the provisions of this act, to pay all the jurors who served at such term; but if there is not a sufficient amount in his hands for that purpose, then he shall pay to each juror his pro rata amount in proportion to his time of service; and shall give to each juror a certificate for the balance due him,

which certificate shall be paid out of the county treasury, and shall be a sufficient voucher for the county treasurer to pay the amount therein certified to be due; and such certificate shall moreover be receivable for all taxes, assessed by the county in which such certificate was given.

Sec. 11. It shall be the duty of each clerk of the District Court in this State, within ten days after the adjournment of each term of the District Court in his county, to pay over to the county treasurer of his county, any ballance of money received under the provisions of this act, that may remain in his hands after reserving a sufficient amount to pay for all jury service rendered at such term, as shown by the statement required to be made under the 6th section of this act; and if any clerk of a District Court shall fail to pay over any such ballance, such clerk and the securities on his bond, shall be liable to pay such ballance and damages thereon at the rate of ten per cent per month, from the time such ballance should have been paid; which may be recovered by said county treasurer, in a suit before any Justice of the Peace, or court having jurisdiction thereof.

Sec. 12. Should any clerk of a District Court fail to pay any juror who has served in his county, the amount that he is required to pay him, under the provisions of this act, when the same is demanded, such clerk and the securities on his bond, shall be liable to pay such juror double the amount he was so required to pay; which may be recovered by such jurors in a suit before any Justice of the Peace, or court having jurisdiction thereof.

Sec. 13. Whenever any clerk of a District Court, shall have reason to believe, that any one who has preceded him in said office, shall not have accounted for, and paid over, all money received by him or them, under the provisions of this act, it shall be the duty of such clerk to collect and apply the same, in like manner, as the same should have been collected and applied by the person who so preceded him in said office; and for that purpose, he may maintain a suit against any clerk, who has so failed to account for and pay over any such money, and the securities on his bond, before any Justice of the Peace or court having jurisdiction thereof.

Sec. 14. Each jury fee imposed by this act, in civil causes, shall be taxed in the bill of costs against the unsuccessful party, and should the said fee have been paid by the successful party, it shall be refunded to him when collected.

Sec. 15. Every clerk of the District Court, who shall neglect to perform any of the duties required of him by this act, or who shall misapply the jury fund created by this act, shall be deemed guilty

of a misdemeanor, and be liable to indictment therefor in the District Court of his county; and on conviction thereof, shall be removed from office by said court.

Sec. 16. Each clerk of the District Court shall be allowed to retain in his hands, a commission of two and one-half per cent on all moneys received and paid out by him, under the provisions of this act; and shall also be entitled to demand and receive from each juror, to whom he shall give a certificate, under the provisions of this act, a fee of ten cents, and no more.

Sec. 17. The provisions of the second, third and sixth sections of this act shall not apply to cases in which, the party interested in having such judgment entered, shall make affidavit before the clerk, that he is too poor to pay said jury fee.

Sec. 18. All fines for contempt of court, and all fines for jurors for non-attendance, or for any other cause, imposed by any court of record, of this State heretofore, and all jury taxes or fees in suits which have heretofore been decided in the District Courts of this State, shall continue to be paid into the county treasury; and it shall not be necessary hereafter, for the county treasurer to keep a separate account of the sums so paid to him.

Sec. 19. All sums due to Jurors, who have heretofore served in any of the District Courts of this State, shall be paid out of the treasury of the county where the service was rendered, in such manner as the county court shall direct; but no jury certificate heretofore issued, shall be receivable for county taxes, unless by an order of the county court, hereafter made.

Sec. 20. Be it further enacted, That "an act establishing fees of office," approved December 19th, 1836; also, "an act amending the judiciary laws of the Republic," approved January 23, 1839; also, "an act to provide for raising a jury fund," approved 8th of May, A. D. 1846; also, "an act providing for the payment of Jurors," approved March 18, 1848, be, and they are hereby repealed; and this act shall be in force from and after its passage.

Passed, February 1850.

## CHAPTER CI.

An act supplementary to an act to amend an act supplementary to an act to create and organise the county of Panola.

Section 1. Be it enacted by the Legislature of the State of Texas, That it shall be the duty of the Chief Justice of Panola county to cause an election to be held in the several districts as contemplated in the first section of the act to which this is a supplement, whenever there is a vacancy of Commissioners caused by death, resignation, or otherwise, at such time as the said Chief Justice may direct; said election, the notice of the same, and the manner of making the returns to be governed by the law regulating the election of other county officers.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, February 5, 1850.

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CHAPTER CII.

An act to define the boundaries of Limestone County.

Section 1. Be it enacted by the Legislature of the State of Texas, That from and after the passage of this act, the boundaries of Limestone county shall be as follows: Beginning at the east corner of Falls county; thence with the north-east boundaries of Falls and McLellan counties, north thirty degrees west, thirty-eight and a half miles; thence north sixty degrees east to a point bearing south thirty degrees east from the south-west corner of Ellis county; thence south fifty-nine degrees east ten miles; thence north sixty degrees east to the Trinity river; thence down said river to the upper corner of Leon county; thence with the north-west boundary of Leon county to the Navasota river; thence up said river to the north corner of Robertson county; thence south sixty degrees west with the north-west boundary of Robertson county to the place of beginning.

Sec. Be it further enacted, That all laws and parts of laws conflicting with the provisions of this act, be, and the same are hereby repealed.

Approved, February 5, 1850.

CHAPTER CIII.

An act to establish the Rio Grande Railway and Turnpike Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That Felix Maxan, P. C. Shannon, Richard Fitzpatrick, their associates and successors, be, and they are hereby constituted and declared to be a body politic and corporate, under the name and style of the Rio Grande and Gulf of Mexico Railroad Company.

Sec. 2. Be it further enacted, That the said persons their associates and successors under the name and style aforesaid, shall be capable in law of suing and being sued, pleading and being impleaded, defending and being defended in all courts whatsoever in this State, and do and suffer all acts, matters and things which a body politic and corporate may do and suffer, and may have a common seal, and the same may alter at pleasure, and may make all by-laws, rules and regulations and ordinances for the good government of said company, and for carrying into effect the objects of their institution, so that such by-laws, rules, regulations and ordinances, be not repugnant to the laws of this State, and of the United States.

Sec. 3. Be it further enacted, That the said persons, their associates and successors, under the name and style aforesaid, shall have the right to construct a Railroad from some point on the Gulf of Mexico between the mouth of the Rio Grande and the Sal Colorado river to Brownsville, Cameron county, on the aforesaid Rio Grande, with the privilege of extending said road or making branches thereof to any point on the said Rio Grande, not further up than the place called El Paso del Norte; and also as many Turnpikes along said railroad track, as may be deemed proper by them.

Sec. 4. Be it further enacted, That the capital of the said company shall not be less than two hundred and fifty thousand dollars, with the privilege granted to the said company of increasing it to five hundred thousand, that said capital shall be divided into stock shares of one hundred dollars each; that ten per cent on each share shall be paid down by each subscriber to said stock, the payment to be made in the manner and to the persons hereinafter mentioned; that said company shall be allowed to enter upon the enjoyment of the privileges and rights hereby granted, whenever five hundred shares of stock are subscribed for, and the ten per cent paid in on each share as above required.

and that no other than citizens of the United States, shall become subscribers to stock in said company.

Sec. 5. Be it further enacted, That each share shall entitle the holder to one vote, which may be given either in person or by proxy; provided nevertheless, that notwithstanding any share holder may have a greater number than one hundred shares, he shall not be allowed votes on more than one hundred of them.

Sec. 6. Be it further enacted, That nine directors shall be chosen annually by the share holders, the first election of whom shall take place within one month after the above required number of shares have been subscribed for; that every director must be the holder of at least twenty-five shares of said stock, that the said directors shall have power to make all by-laws, rules and regulations, necessary for the good government and proper administration of the affairs of the company; that a quorum for the transaction of business shall be five of said directors.

Sec. 7. Be it further enacted, That the said directors shall, at the first meeting after the annual election, choose a president from among their number, who shall continue in office during the time for which said directors are chosen, whose duties and powers shall be, to preside at and give notice of all meetings of the directors, to give a casting vote in case of a tie in the said directors on any subject under their consideration, and to call meetings of the stockholders whenever in his opinion, the affairs of the company may require it; it is provided also, that in case of the death, resignation or absence of the president, the directors may choose another temporarily.

Sec. 8. Be it further enacted, That books for the subscription of the capital stock of the company, shall be opened by the said Felix Maxan, P. C. Shannon and Richard Fitzpatrick, immediately after the passage of this act, at such times and at such places, as they may think most convenient and beneficial to the general interest; and they the said F. Maxan, P. C. Shannon and Richard Fitzpatrick, as soon as the five hundred shares required by this act shall have been subscribed for, shall publish a notice in one or more newspapers of the said town of Brownsville, calling upon the share holders to meet in Brownsville, and to choose either in person or by proxy, duly authorized, the nine directors required by the sixth section of this act; and also, to take into consideration any other matter that may be of importance in the organization of the company, and after such election of directors, all moneys collected for the purposes of the company, and all powers hereinbefore granted the said F. Maxan, P. C. Shannon and Richard Fitzpatrick, shall be transferred by them to the directors.



Sec. 9. Be it further enacted, That when the company shall be duly organized in conformity with this act, the president and directors shall have full power, to borrow money upon the faith of this charter to accomplish the object of the present act, and may hypothecate the stock or other property, real, personal or mixed, of the said company, and issue certificates for the payment of the same; and also, to do and perform as directors of the said company, every thing necessary to carry it into complete operation.

Sec. 10. Be it further enacted, That said company shall be authorized to enter upon and take possession of any public land on the route of said road, not exceeding one hundred yards in width for the use of said road, and said company may also enter upon and take possession of any land belonging to private persons upon the route of said road or its branches, for the use of said road; Provided, that the same shall not exceed the width of one hundred yards, by paying the owner or owners whatever price may be agreed upon, and should the said owner or owners of the land not be able to agree as to the price, or should the owner or owners be unable to contract, or be absent or unknown, the company may petition the Chief Justice of the County Court of the county in which the said land is situated, giving a description of the land which they require, with the names of the proprietors if they can be ascertained, and the said Chief Justice shall summon a jury of six free holders, not in any manner interested, who shall, on oath, make a report of the value of the land so required; and upon the payment thereof by the company to the owner or the treasurer of the county, a good and bona fide title shall be granted by the Chief Justice, a copy of which shall be recorded in the office of the county clerk of the county in which the land is situated.

Sec. 11. Be it further enacted, That if any person or persons whatsoever, shall by any means whatsoever, injure, molest, or destroy, any part of the Turnpikes or Railroads constructed by said company under this act, or any of their works, buildings, fixtures or machines, or other property, such person or persons so offending, shall each of them be liable for all damages occasioned thereby, and upon conviction shall be fined not exceeding one thousand dollars, or confined to hard labour in the penitentiary for a term of not less than one year, or both, in the discretion of the court.

Sec. 12. Be it further enacted, That the said company may construct bridges, and make such improvements in the different rivers, bayous or creeks, over which said Railroad and Turnpikes

may pass, as may be deemed expedient; provided, that they do not obstruct the navigation of them.

Sec. 13. Be it further enacted, That said road shall be commenced within two years from the passage of this act, and that part thereof between Brownsville and the Gulf of Mexico, at least, finished within seven years; otherwise, this charter shall be null and void.

Sec. 14. Be it further enacted, That the State shall have the right, after the said Railroad and Turnpikes have been finished, and in use by the said company for fifty years, to purchase the same from the said company at two-thirds the value thereof, as appraised by six disinterested appraisers; three of whom shall be appointed by the Governor of the State, and three by the said company.

Sec. 15. Be it further enacted, That the directors of said company shall not at any one time call in more than ten per cent on each share; Provided also, that every share on which the above installment is not paid within one month after being called for by the directors, shall be considered forfeited, and can be resold by said directors.

Sec. 16. Be it further enacted, That this act shall take effect from and after its passage.

Approved, February 5, 1850.

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#### CHAPTER CIV.

##### An act to organize the County of Ellis.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Chief Justice of Navarro county be, and he is hereby authorized and required to issue writs of election to the several presiding officers of the different precincts in the county of Ellis, directing elections to be held for the purpose of electing the county officers to which the county is entitled under the constitution and laws of the State, excepting a county or district surveyor; said election to take place on the first Monday in August, in the year eighteen hundred and fifty, and the Chief Justice to give at least ten days notice previous to the day of election; and until the said county of Ellis is organized under the provisions of this act, the territory which, under this act, would

be subject to the jurisdiction of Ellis county, shall be considered as attached to, and forming a part of Navarro county.

Sec. 2. Be it further enacted, That said election shall be held and governed by the same rules and regulations which govern general elections for members of the Legislature, and that the returns shall be made on the tenth day after the election, to the said Chief Justice, at the house of E. W. Rogers in said county, where it is hereby made the duty of said Chief Justice to attend and receive, count and compare the returns of said election, and to qualify all officers elect who may be present, and give them their certificates of election; and the officers so qualified shall be as fully authorized to act in their several official capacities as if duly commissioned by the Governor.

Sec. 3. Be it further enacted, That the said Chief Justice is hereby required to make a full return of said election to the Secretary of State in conformity with the provisions of the law regulating elections for county officers.

Sec. 4. Be it further enacted, That if any person should fail to be qualified as provided in the second section of this act, then it shall be the duty of the Chief Justice elect, or any one of the County Commissioners, to administer the oath of office to said officers, at any time within twenty days after the day on which the votes were counted, and furnish them with their certificates of election, which shall authorize them to enter upon the discharge of their duties; and the officer so administering the oath, shall immediately certify the fact to the Chief Justice of Navarro county, who shall certify the same at the time of making his returns to the Secretary of State.

Sec. 5. Be it further enacted, That the county of Ellis shall pay to the Chief Justice of Navarro county two dollars for each and every day he may be necessarily engaged in performing the duties herein required of him, out of the first moneys in the treasury not otherwise appropriated.

Sec. 6. Be it further enacted, That the County Court of Ellis county for county purposes shall meet quarterly, on the third Mondays in February, May, August and November, and may continue in session one week, and shall be governed by the same rules and regulations as other county courts.

Sec. 7. Be it further enacted, That all persons residing west of Ellis county, and east of the Brazos river, shall be subject to the jurisdiction of Ellis county, and entitled to all the rights and immunities of citizens of said county, and they shall also be liable to pay taxes as citizens of said county.

Sec. 8. Be it further enacted, That if the Chief Justice of

Navarro county shall, from any cause whatever, fail to have said election held on the first Monday in August, as provided in the first section of this act, then it shall be his duty to issue writs of election, ordering said election to be held thereafter as soon as practicable, provided he shall give at least twenty days notice of the same, and be governed in every other respect as provided in the foregoing sections of this act.

Sec. 9. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, Feb. 5, 1850.

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#### CHAPTER CV.

An act to prevent locations in the Colonies of Austin, De Witt, and De Leon.

Section 1. Be it enacted by the Legislature of the State of Texas, That no certificate of land, land warrant, or evidence of land claim of any kind whatever, shall hereafter be located upon any land heretofore titled or surveyed within the limits of the colonies of Austin, De Witt, and De Leon, and the Commissioner of the General Land Office is hereby prohibited from hereafter issuing a patent on any location hereafter made for any of the lands described in this act; and should any patent be hereafter issued for the same, or a part thereof, contrary to the provisions of this act, the same shall be null and void.

Sec. 2. Be it further enacted, That this act shall take effect and be in force from and after its passage.

Approved, February 5, 1850.

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#### CHAPTER CVI.

An act to amend the fourth section of "an act for the regulation of Pilots at the mouth of the Brazos river," approved March 18th, 1848.

Section 1. Be it enacted by the Legislature of the State of Texas, That the fourth section of the above recited act be so

amended that it shall hereafter read as follows: Sec. 4. That the said Pilots shall be entitled to three dollars for each foot of water that any vessel may draw, at the time of piloting the same; and whenever a vessel shall decline the services of a Pilot offered outside of the bar, and shall enter said river without the aid of one, the Pilot who first so offers his services, shall be entitled to one half of the above amount, and if said vessel should also go out without a Pilot, she shall in like manner be required to pay half-pilotage; and any vessel which, after being brought in by a Pilot shall go out without employing one, shall be liable for the payment of Pilotage to the same Pilot who brought her in; provided, however, that all vessels of thirty tons burden and under, shall be free from any charge of pilotage, unless for actual services.

Sec. 2. Be it further enacted, That this act shall take effect and be in force from and after its passage.

Approved, Feb. 5, 1850.

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## CHAPTER CVII.

An act providing for the payment of the Forage, Subsistence, Medicines, &c., of the Company of Mounted Volunteers commanded by Captain Johnson, and mustered into the service of the State by order of his Excellency, Geo. T. Wood, Governor.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Comptroller of the State be, and he is hereby authorized and required to audit the claims of Captain Johnson's company of mounted volunteers for forage, subsistence, medicines, &c., furnished by themselves during their term of service; provided, that each claimant under the provisions of this act, shall present to the Comptroller a certificate signed by the commanding officer of said company, stating the commencement and expiration of his term of service, and the number of days that such claimant furnished his own subsistence, forage, &c.

Sec. 2. Be it further enacted, That all accounts for medicines furnished said company, shall be accompanied by proper vouchers, certified by the commanding officer of said company to be correct.

Sec. 3. Be it further enacted, That in the settlement of the accounts under the provisions of this act, the Comptroller shall be governed by the rules and regulations of the army of the United States.

Sec. 4. Be it further enacted, That the Comptroller is hereby authorized to draw upon the Treasurer of the State for the amount in favor of the respective claimants, whose claims shall be found by him to be just and equitable.

Sec. 5. Be it further enacted, That the sum of six thousand dollars, or as much thereof as may be necessary, be, and the same is hereby appropriated out of any money in the Treasury not otherwise appropriated, for the purpose of this act.

Sec. 6. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, February 5, 1850.

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## CHAPTER CVIII.

### An act for the relief of the Citizens of Mercer's Colony.

Section 1. Be it enacted by the Legislature of the State of Texas, That every colonist, or the heirs or administrators of such colonist, citizens of the colony of Charles Fenton Mercer and his associates, on the 25th of October, 1848, shall receive the quantity of land to which such colonists may be entitled, to wit: six hundred and forty acres to each family, and three hundred and twenty acres to each single man over the age of seventeen years. Provided, that nothing herein contained shall be construed so as to place the contractors of said colony in a better condition in regard to the State of Texas than they would be, if this law had not been passed.

Sec. 2. That the Governor, by and with the advice and consent of the Senate, shall appoint a Commissioner, whose duty it shall be to hear proof, and determine what colonists shall be entitled to land as aforesaid; and said Commissioner shall issue to parties entitled to the same, or to the heirs or legal representatives of such parties, certificates for their proper quantity of land.

Sec. 3. That the owners of said certificates may locate, transfer, or donate the same, and exercise all rights of ownership over them.

Sec. 4. That said certificates may be located on any vacant

land within the limits of said colony not otherwise appropriated, as other head-right certificates are located, and the same laws relative thereto shall govern the surveyors and other officers, in the discharge of their official duties in relation to the surveying, recording, &c., of the same.

Sec. 5. That no change shall be made in the boundaries of the surveys of settlers, whether they be with or without the consent of the contractors, so that the boundaries thereof are justly and definitely marked.

Sec. 6. That should the Commissioner appointed under the second section of this act, fail or neglect to act, or should the office in any manner become vacant, the Governor is hereby authorized and required to fill such vacancy by appointing some competent person to perform the duties herein required, as soon as practicable.

Sec. 7. That the Commissioner appointed in compliance with this act, shall receive two dollars for each certificate issued, to be paid by the party receiving the same; and said Commissioner shall do and transact the business and duties required of him, at the different county seats of each and every county within the limits of said colony.

Sec. 8. That to entitle the colonists to the benefits of this act, they shall be required to prove by their own oaths, supported by the oaths of two respectable witnesses, that they emigrated to Texas, and became citizens of said colony prior to the 25th of October, 1848, that they are still citizens thereof, that they have performed all the duties required of them as citizens, and said applicants shall also swear that they have never received any land of this Government by virtue of their emigration hither; provided, that they shall not be required to prove that they have cultivated land.

Sec. 9. That to entitle the heirs and legal representatives of such citizens as have died subsequently to their citizenship, within the limits of said colony, to the benefits of this act, the proof and requirements shall be the same as in the foregoing, except the oath, instead of which there shall be substituted the oath of the heirs and legal representatives of such citizens, testifying to the best of their knowledge and belief to the truth of the facts herein required to be proven.

Sec. 10. That upon the presentation of said certificate, with the proper field-notes of the surveyor, made in accordance with the law, the Commissioner of the General Land Office shall issue the patents accordingly, to all who may be entitled to the same.

Sec. 11. That it shall be the duty of the Commissioner ap-

pointed by virtue of this act, to send to the Commissioner of the General Land Office a monthly list, under oath, containing a description of certificates issued in compliance with this act, and he shall also keep a record in a well bound book, showing the quantity of land for which each certificate issued, the names of the parties obtaining the same, and the names of the witnesses who made the proof, and said Commissioner shall deposite said record book in the General Land Office, at the expiration of the time limited in this act for granting certificates.

Sec. 12. That the Commissioner appointed by virtue of this act, before he enters upon the duties of his office, shall give bond in the sum of twenty thousand dollars, with security to be approved by the District Judge of the ninth judicial district; which bond shall be drawn payable to the State of Texas, and shall be conditioned, that the Commissioner shall faithfully and impartially discharge the duties imposed on him by this act, and shall also take the oath required by the constitution, which oath shall be endorsed on the said bond, and with the same shall be deposited in the office of the Secretary of State.

Sec. 13. That said Commissioner shall continue to perform the duties imposed on him by this act, for and during the term of eighteen months from and after his appointment as aforesaid, and no longer.

Sec. 14. That in case the claim of any individual be rejected by said Commissioner, such claimant shall have the right to appeal to the district court of the county where he or she applied, under the rules and regulations governing appeals from Justices' courts to the district courts, except that the appeal bond be required only to cover the costs of appeal, and in case the judgment be affirmed, the appellant shall pay all costs, and in case the judgment be reversed, the claimant shall be entitled to a certificate from the clerk of the district court, for which he shall pay to the clerk of the court two dollars: which certificate shall entitle the owner to all the rights to which he would have been entitled under a certificate from the Commissioner aforesaid.

Approved, February 2, 1850.



CHAPTER CIX.

An Act better defining the boundaries of Kaufman County.

Section 1. Be it enacted by the Legislature of the State of Texas, That from and after the passage of this act, the county of Kaufman, be, and the same is hereby bounded as follows, to wit: Beginning at the north-east corner of Dallas county; thence east, with the southern boundary of Collin county to the west boundary of Hunt county; thence south with said boundary to the south-west corner of said county; thence east with the south boundary of said county, thirteen and a half miles; thence south to the north boundary of Henderson county, (it being a line running west, from the south east corner of A. Sidney Johnson's, twelve hundred and eighty acre survey, on the Neches river;) thence west to the Trinity river; thence up said river with its meanders to the south boundary of Dallas county; thence east with said boundary to the south-east corner of said county; thence north with the east boundary of said county to the beginning.

Sec. 2. That the second Saturday in June next, 1850, be fixed, as the day for holding an election in said county, for the selection of a suitable place for the permanent location of the county seat of justice, of said county: and it shall be the duty of the Chief Justice of said county to give public notice of the same in writing, to be posted up at the different precincts, immediately after the passage of this act, and to issue writs of election to the different precincts at least ten days prior to said election.

Sec. 3. That it shall be the duty of the Chief Justice to receive, and make public in writing, posted up at the different precincts, such propositions as may be offered as inducements in favor of the selection of places recommended as suitable locations for the county seat of said county.

Sec. 4. That the propositions submitted to the Chief Justice in compliance with the third section of this act, shall be in the shape of penal bonds, and shall be collected at the suit of said Chief Justice, or his successors in office, in the District Court for the use of the county, and the proceeds applied to the payment of the debts of said county, created for the erection of county buildings.

Sec. 5. That the election of said county seat shall be conducted in conformity with the existing laws regulating elections, at the time thereof, and the returns made to the Chief Justice, in ten days after the election, who shall declare the place receiving the highest number of votes, the legal seat of justice of said

county; Provided, any one place shall have received a majority of all the votes polled at said election, but in the event that no one place shall have received a majority as aforesaid, then and in that case, it shall be the duty of the Chief Justice, to proceed to order another election, after giving notice, as in the first instance, putting in nomination the two places that shall have received the greatest number of votes; which shall be conducted, and returns made as heretofore provided, and the place then receiving the highest number of votes, shall be declared the county seat of justice; Provided, it shall not be over five miles from the centre of said county.

Sec. 6. That Adam Sullivan, T. G. Parrous, Abner Johnson, Parson, Kizer, Judge Baines, R. W. Gray and Robert Terrill, a majority of whom, may constitute a quorum to do business, shall be, and they are hereby appointed Commissioners to lay out, and sell lots if necessary, and to superintend the carrying out such propositions, as may have been made in behalf of the location selected, and report to the Chief Justice whether or not, the bonds containing propositions in favor of the said selected place, have been strictly complied with by the makers and obligors of the same.

Sec. 7. That should the place elected, be upon vacant and unappropriated land, the said Commissioners shall proceed forthwith to condemn, to the use of said county, a tract of not more than three hundred and twenty acres of land, and have the same surveyed (by any lawful surveyor) by virtue of any genuine certificate, land-scrip, bounty warrant, or other evidence of title, and recorded and patented, as other claims are: or should said Commissioners prefer, they may out of any of the funds of said county, or out of any other funds under their control, pay to the State Treasurer, the sum of one hundred and sixty dollars, and obtain his receipt therefor; and present the same together with the field notes of the survey to the Commissioner of the General Land Office, he shall issue a patent to the said county for said land.

Sec. 8. That as soon as the county buildings of said county are received by the Commissioners, and reported to the Chief Justice, the clerks of the District and County Courts, Sheriff and County Surveyor, shall remove their offices and papers to the place selected as the county seat, and all courts hereafter shall be held at the same county seat.

Sec. 9. That all laws and parts of laws, conflicting with this act, be, and the same are hereby repealed; and that this act take effect and be in force, from and after its passage.

Approved, February 7, 1850.

## CHAPTER CX.

## An Act to incorporate the Houston Plank Road Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That E. B. Nichols, P. Bremond, William J. Hutchins, William M. Rice, A. S. Ruthven, B. A. Shepard, Thomas M. Bagby, James H. Stevens, Samuel L. Allen, William A. Van Alstine, A. McGown, F. W. House, Francis Moore and C. Evans, and their associates, and successors or assigns, be, and they are hereby incorporated under the name and style of the Houston Plank Road Company, to be governed by the rules and regulations hereinafter mentioned; and under this title may transfer their rights in succession or assignment, and shall be capable in law of suing and being sued as persons, pleading and being impleaded, answering and being answered unto, defending and being defended in all courts and places whatsoever, and that they and their successors may have a common seal, and change and alter the same at pleasure; and also, that they and their successors by the same name and style, shall be capable of holding, purchasing and conveying, any estate, real, personal or mixed, for the use of said company, and doing and performing all things which are necessary and common for companies of a similar character to do, not contrary to the provisions of this charter, the constitution of this State, and that of the United States.

Sec. 2. Said company shall have the right to construct a Plank Road from the city of Houston to the Brazos River, and also, to establish a Ferry across the Brazos River; Provided, that said ferry shall not be established within two miles of any ferry now established, unless with the full consent of the owner, or renters of such ferry; and the said company shall have the right to erect toll gates and charge tolls, to be established by said company, and subject to be regulated by law.

Sec. 3. The said company shall have the right to run the road upon any vacant unappropriated land, part of the public domain, through which said road may pass, and may occupy the same; Provided, such public land so occupied shall not exceed one hundred and fifty feet in width.

Sec. 4. Said company shall have the right to enter upon and take possession of any other land that may be necessary for the purposes of said road: Provided, the same shall not exceed fifty yards in width, by paying the owner or owners of the land whatever price may be agreed on, or should the owner or owners be unwilling or unable to contract, or be absent or unknown, said company may petition the County Court of the county in which

such land so required may be situated, giving a description of that portion thus required, with the name or names of the owner or owners, if the same can be ascertained, and the said court shall cause to be summoned a jury of six free holders of said county, who on oath shall make a report of the value of the land so required, and upon the payment thereof by the company, either to the owners or to the county treasurer of the county, a good and bona fide title shall be granted by the Chief Justice of the County Court, a copy of which shall be recorded in the office of the county clerk of the county in which the land is situated.

Sec. 5 The capital stock of said company shall be one hundred and fifty thousand dollars, to be divided into shares of fifty dollars each, and each stock holder shall have one vote for each share that he may own, and vote in person or by proxy. On application for shares, ten dollars on each share shall be deposited with the Commissioners appointed by the president and directors of said company, and the balance shall be paid at such time and on such terms, as the president and directors may designate; and if any person shall neglect to pay any of the instalments, after being notified by an advertisement, published for sixty days in some newspaper published at Houston, or at the Seat of Government, the previous subsequent instalments shall be forfeited for the benefit of said company, and a new subscription may be opened, or said shares may be sold to cover any deficit occasioned by the non-payment of the instalment due on said shares.

Sec. 6. Whenever one hundred shares of said stock have been subscribed for, the share holders may elect a board of seven directors, each of whom shall own at least five shares of the capital stock of said company. The management of the affairs of said company shall be conducted by said directors, a majority of whom shall constitute a quorum to do and perform all the business necessary to the successful operation of said company. A majority of said directors shall appoint a President from one of their own numbers, and shall fill all vacancies that may from time to time occur, from death, resignation or otherwise, and after the first election of directors, all subsequent elections shall take place in the city of Houston, on the first Monday of November, of each year, and in case of the failure of the stockholders to elect said directors, the corporation shall not be dissolved for that cause, but the president and directors for the time being, shall continue in office until there shall be an election; Provided also, that it shall be the duty of said directors to call a meeting of the stock holders at an early day to elect the directory, as at the regular annual meeting.

Sec. 7. The president and directors of said company shall have authority to adopt all such rules, regulations, and by-laws, as they may consider necessary to effect the objects contemplated by this act of incorporation.

Sec. 8. If any person or persons, shall obstruct, demolish or injure in any way said Plank Road, or any part thereof, said person or persons shall forfeit and pay to said company, any sum adjudged against him or them, by any Justice of the Peace, or court having jurisdiction of the same; and if any person or persons shall pass round or through the toll gate or gates, authorized to be set up by said company with intent to evade the payment of toll, he, she, or they shall, for every such offence forfeit and pay to the said company, three times the amount of toll established by said company, recoverable before any Justice of the Peace, having jurisdiction of the same.

Sec. 9. It shall be unlawful for any person to ride or drive across the ditches and embankments, that may be made on either side of said road, except at such places as shall be provided and established by said company, for the public convenience; and any person so offending shall upon conviction thereof, before a Justice of the Peace, forfeit and pay to the use of said company, damages to be assessed by such Justice, in any sum not less than five nor more than fifty dollars.

Sec. 10. Said company shall have the right to construct a branch of said road, in the direction of Springfield, in the county of Limestone, and all the provisions of this charter are intended to, and hereby declared applicable to said branch.

Sec. 11. The president and directors of said company, shall have full power to borrow money upon the faith of this charter, and to hypothecate the stock or other property, real, personal or mixed, and issue certificates for the payment of the same, and to do all things needful and proper, to carry out the provisions of this act.

Sec. 12. This charter shall take effect from its passage, and be in force for the period of twenty-five years, and no longer; and said company shall keep said Plank Road in good repair, and in case of neglect so to do, shall forfeit all tolls, while the same remains unrepaired.

Approved, February 7, 1850.

## CHAPTER CXI.

## An act regulating Estrays.

Section 1. Be it enacted by the Legislature of the State of Texas, That hereafter when any stray horse, mare, colt, mule, jack or jennet shall be found on the plantation or land of any citizen of this State, such citizen shall forthwith advertize the same, describing the animal's color, and specifying the marks and brands, if any, at three public places in the county in which such citizen resides, one of which notices shall be on the Courthouse door, for at least twenty days; after the expiration of which time, if no owner apply, it shall be lawful for such citizen to appear before some Justice of the Peace in and for said county, and stray the same.

Smc. 2. Be it further enacted, That any citizen entitled to stray any animal as provided in the first section of this act, shall make oath that the animal to be estrayed was taken up at his or her residence, or on his or her plantation, or on his or her land adjoining the same; that the marks and brands have not been altered or disfigured since the same was taken up; that notice has been given according to law, and that no owner has been found; which affidavit shall be sworn to and subscribed by the citizen estraying, and filed; whereupon, the Justice shall cause to appear before him, by summons or otherwise, two disinterested householders of his county, commanding them, after being sworn, to value and appraise the same, and certify the valuation, together with a particular description of the animal, including stature, marks, brands, color and age, under oath, which shall be attested by the Justice, who shall thereupon require of the taker up a bond, with two or more solvent securities, for double the appraised value of such animal, payable to the Chief Justice of the county or his successors in office; conditioned, that the taker up shall comply with the provisions of this act, which affidavit, appraisalment and bond shall be transmitted by such Justice to the clerk of the county court within twenty days thereafter, for which the said Justice shall receive the same fees that are allowed for similar services by law.

Sec. 3. Be it further enacted, That it shall be the duty of the clerk of the county court to record the papers transmitted to him, as provided for in the second section of this act, in a separate book to be kept in his office for that purpose, and for which he shall be entitled to the same fees that are allowed for similar services by law, to be paid in all cases by the taker up; provided,

that when two or more animals are taken up by the same person, and at the same time, they shall be included in the same entry; and the Justice and Clerk shall receive no more fees than for one such animal: and such county clerk shall also cause a copy of the certificate of appraisement and description of the animal or animals estrayed to be forwarded to the printer of the laws of this State, at the end of every three months, whose duty it shall be to publish the substance of the same, and forward the paper containing such notice to the county clerks of the several counties, whose duty it shall be to file and preserve the same in their respective offices, for the inspection of all persons who may be interested, and by notices posted up at three public places in the county, and also at the courthouse door of such county; and for such publication or notice, the printer shall receive from the party estraying the sum of two dollars, to be collected from the taker up by the county clerk, and paid to the order of such printer.

Sec. 4. Be it further enacted, That at any time within twelve months, it shall be lawful for the owner of any stray horse, mare, colt, mule, jack or jennet, to prove his or her property by the oath or affidavit of any respectable witness, in a certificate containing a particular description of the animal or animals claimed, including the kind, marks, brands, stature, color and age of the same, which certificate shall be sworn to and subscribed before any Justice of the county wherein such animal or animals may have been estrayed, and delivered to the taker up to be filed by him in the office of the county clerk of such county; and on the delivery of such certificate, and the payment of all costs incurred in keeping and posting such stray or strays to the taker up, shall be entitled to demand and receive such animal or animals; provided, that when the respectability of the witness aforesaid is not known to the officer administering the oath, the party claiming shall produce satisfactory evidence of the respectability of such witness, certified by a Notary Public of the county in which the witness resides, and provided, further, that in all cases when the owner and taker up can not agree upon the charge for keeping such stray or estrays, the Justice before whom such animal or animals may have been posted, shall determine the amount to be paid by the owner to the taker up.

Sec. 5. Be it further enacted, That the property of every stray horse, mare, colt, mule, jack or jennet taken up as aforesaid, and not proved away by the owner thereof within twelve months after such appraisement, shall be deemed vested in the county wherein such stray or estrays may have been posted;

and the taker up shall immediately thereafter proceed to sell the same for cash to the highest bidder, giving notice of the same as required in the case of sheriff's or constable's sales; and within ten days after such sale, he shall pay into the county treasury of the county one half of the proceeds of the same; and retain the other half for his own use and benefit; provided, that each and every return of sale shall be made to, and filed by the county clerk of the county, and sworn to by the taker up.

Sec. 6. Be it further enacted, That if any person or persons estraying any horse, mare, colt, mule, jack or jennet, shall send or take away the same out of the State of Texas, through fraud, or swap, sell, or otherwise dispose of the same for the purpose of gain, or for the purpose of holding such property, he, she, or they so offending shall be considered guilty of horse-stealing, and be liable to prosecution and punishment as provided by law for such offence, and shall moreover be liable upon his, her or their bond in an action for damages, in favor of the party injured.

Sec. 7. Be it further enacted, That any person who shall take up and use any stray horse, mare, colt, mule, jack or jennet, contrary to the intent and meaning of this act, shall be considered guilty of a misdemeanor, and on conviction by indictment in the district court for the county in which such misdemeanor shall be committed, may be fined in a sum equal to double the value of the animal or animals and costs; and shall moreover be liable to the owner thereof, in an action in any court having competent jurisdiction, for the value of such stray or estrays so taken up and used as aforesaid.

Sec. 8. Be it further enacted, That any citizen taking up any stray cattle, hogs, sheep, or goats, shall proceed in the same manner and form as required in the case [of] horses, &c., except advertising in a newspaper; and any person or persons estraying the same, at the expiration of six months from the date of appraisalment, shall proceed in the same manner as is provided in case of horses, &c., provided that no animal of the kind enumerated in this section, except work oxen, shall be subject to be estrayed, unless the same shall have been on the plantation or land of the taker up at least sixty days previous to the time of estraying the same.

Sec. 9. Be it further enacted, That whenever any stray animal shall be found dead, or shall escape, the taker up shall without delay make report thereof to the clerk of the county court, under oath, which report shall be recorded in an estray book, and any person who shall be found guilty of making a false report, shall be liable to an indictment and punished therefor as in other



cases of perjury, and shall moreover be liable on his or her bond for the value of the animal or animals estrayed.

Sec. 10. Be it further enacted, That each and every estray shall be kept in the county in which such animal was taken up, and may be used in moderation; provided, that if the same be abused, the taker up shall be liable upon his bond in damages for such abuse, and may be sued therefor, either by the owner, or by the Chief Justice for the use of the county.

Sec. 11. Be it further enacted, That if any person having in charge of any estray, or estrays, shall refuse to deliver the same to the owner thereof on his complying with the requisitions of this act, such owner shall be entitled to his action therefor with damages.

Sec. 12. Be it further enacted, That if any estray or estrays of any kind shall be found running at large, and not estrayed, and the owner of the same be unknown, it is hereby made the duty of the county Commissioners, or any of them, to return the same, with a full description thereof, to the county clerks of their respective counties, who shall advertise the same in the manner specified in this act, and if such animal shall not be proved away by the owner within the time allowed by the provisions of this act, the Commissioner entering the same, or his successor in office, shall proceed to sell such animal or animals, and report the sale thereof to the clerk of the county court, and after paying the clerk's fees, and retaining twenty-five per cent. of the proceeds of such sale, he shall pay the remainder into the county treasury for the use and benefit of the county.

Sec. 13. Be it further enacted, That when any person or persons may hunt estrays in another stock range, he or they shall notify the owner or stock-minder of said stock, his or their intention or object; and if such person or persons, in driving off estrays, or otherwise, shall drive, or cause to be driven, either directly or indirectly, any of said stock out of their accustomed range, except he, she or they may be the owner thereof, or may have authority from the owner or his agent, such person or persons so offending shall forfeit and pay the sum of fifty dollars for each animal so driven off, to be recovered before any court of competent jurisdiction, one half to the informer, and the other half to the county where the offence was committed, and shall be further liable in a suit for damages to the party aggrieved.

Sec. 14. Be it further enacted, That all moneys which may be paid into the county treasury under the provisions of this act, shall be applied to the payment of jurors attending district courts in their respective counties: and the county treasurer, after de-

ducting therefrom his legal commissions, shall pay out the same upon the certificates of attendance issued by the clerk of the district court to such jurors, after the adjournment of each term, pro rata, if the amount should be insufficient to pay all the jurors.

Sec. 15. Be it further enacted, That it shall be the duty of the Chief Justice of those counties in this State bordering on the Rio Grande, to furnish a brand at the expense of the county, with which all animals sold under the provisions of this act shall be branded.

Sec. 16. Be it further enacted, That an act entitled "an act regulating Estrays," approved March 20, 1848, be, and the same is hereby repealed.

Approved, February 8, 1850.

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## CHAPTER CXII.

### An act to create the county of Uvalde.

Section 1. Be it enacted by the Legislature of the State of Texas, That all that territory included within the following limits in the county of Bexar: Beginning at the junction of the Rio Frio, and Leona river: thence up the Rio Frio, to the southwestern corner of Medina county; thence north with the western boundary line of Medina county, thirty-six miles to its northwestern corner; thence west to the Nueces river; thence down the river Nueces to the crossing of the upper Presidio del Rio Grande road; thence in a direct line to the place of beginning, be and the same is hereby created a new county, and named the county of Uvalde.

Sec. 2. Be it further enacted, That it shall be the duty of the Chief Justice of Bexar county, to cause an election to be held at Gates' Camp on the first Monday in August next, for the purpose of electing county officers for the said county of Uvalde, in accordance with the method prescribed by an act to provide for the organization of the several counties in the State, approved April 11th, 1846.

Sec. 3. Be it further enacted, That the Chief Justice and County Commissioners who shall be elected in conformity with the above section, shall meet on the first Monday of September, in the year eighteen hundred and fifty, and select a suitable site for the county seat of said county of Uvalde.

Sec. 4. Be it further enacted, That if the organization of the said county of Uvalde, shall not be effected as contemplated in the second and third sections of this act, then the organization shall take place in the same manner on the first Monday of August, in the year eighteen hundred and fifty-one, and the choice of a county seat, shall be made, as above directed, on the first Monday of September, in the year eighteen hundred and fifty-one.

Sec. 5. Be it further enacted, That the county of Uvalde, shall be attached to the fourth Judicial District.

Approved, February 8th, 1850.

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### CHAPTER CXIII.

#### An Act to incorporate the Galveston and Brazos Navigation Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That there shall be established a company under the name and style of the "Galveston and Brazos Navigation Company," with a capital stock of one hundred and fifty thousand dollars, with the privilege of increasing the same to three hundred thousand dollars, to be divided into shares of ten dollars each, for the purpose of cutting a Canal from San Louis or West Galveston Bay, to the waters of the Brazos River, and with the privilege also, of connecting by Canal the waters of the Brazos river with the San Bernard, Peach Creek and Colorado river; Provided, however, that said canal shall not commence or terminate at the Brazos river, nor cross the same stream at a point more than five miles from its mouth, without the consent of the Brazos and Galveston Canal Company.

Sec. 2. Be it further enacted, That books shall be opened to receive subscriptions for said capital stock, in the city of Galveston, town of Brazoria and town of Washington, on such days, and at such times as Gail Borden, jr., John S. Sydnor and J. C. Kuhn, of Galveston, L. M. H. Butler, John Adriance and D. Hardiman, of Brazoria county, and Joseph H. Wood, of Washington county, the Commissioners herein named, may designate and appoint; and that the said Commissioners, shall be, and are hereby authorized to receive subscription, to prescribe the terms of payment, and to call the first meeting of the stock-holders; provided, that no subscription for stock, shall be valid, nor shall

the same be received unless the subscriber shall pay to said Commissioners, five per cent on the amount of each share, at the time of subscribing.

Sec. 3. Be it further enacted, That the subscribers to said company, their successors and assigns, shall be, and are hereby created a corporation, under the name and style of the Galveston and Brazos Navigation Company, and under that name, shall be capable to contract, to buy and receive, all kinds of property, moveable and immoveable, that may be necessary for such corporation to construct said canals, and to make such other improvements as may be expedient, for the more perfect navigation of the said waters; and to do and perform all such things as may be proper, to carry on the business of said navigation, and to negotiate, grant, sell and dispose of any such property, borrow money on the faith of this charter, and also, to pledge such property, real or personal, for the payment of the same; to sue and be sued, and to have a common seal, to bind themselves with or without a seal; to establish such ordinances, rules and regulations, as they may think necessary and proper for the use and protection of said company, not contrary to the constitution and laws of Texas.

Sec. 4. Be it further enacted, That for the management of said company, there shall be thirteen Directors, who shall have the power to adopt by-laws, and to prescribe the manner in which the business of the company shall be conducted, and who shall be annually elected by the qualified stock-holders of the capital stock of said company by a plurality of votes, each share to the number of twenty, being entitled to one vote, and each share over that number, to one vote for every five shares, and votes allowed by proxy; and that the first election shall be held at such time and place as the Commissioners herein named may appoint, and the said directors shall have power to declare any stock of said company forfeited to said company, if any subscriber shall fail or refuse to pay any instalment of his capital stock, within ninety days after he shall have been served with a written or printed notice of the time and place at which such payment is required to be made, and all stock so forfeited shall be disposed of by said directors, for the use and benefit of said company.

Sec. 5. Be it further enacted, That the directors so elected, shall elect a President from their own body, and said president and directors shall serve as such until their successors shall be duly elected and qualified.

Sec. 6. Be it further enacted, That no one shall be eligible for the office of director, who is not the bona fide owner of ten

shares of the capital stock of said company, and shall have held the same, at least, one month previous to the election.

Sec. 7. Be it further enacted, That the said corporation shall have the power to appropriate such lands on the immediate route of said canal, and within one hundred feet on each side of it, as may be necessary for the construction of said canal or canals, upon compensating the owner or claimants of such lands for the same at their cash valuation, and for any further amount of damages which such owners may sustain in consequence of said canal, which compensation and damages shall be ascertained, in the following manner: the corporation shall present a petition to the Chief Justice of the county, in which such land or lands may be situated, designating what lands are required for the use of said canal or canals, and stating as near as can be ascertained, who are the owners or claimants of said lands; whereupon, the Chief Justice shall appoint a day, not less than twenty days nor more than forty from the time of filing such application, for the parties interested to appear before him to ascertain the value of such lands, and the amount of damages to which the owner may be entitled; twenty days notice of the time and place of such hearing shall be given, by notices posted up in three public places in the county, by written notice delivered to such owners or claimants, as are residents of the county; and on the day so appointed by the said Chief Justice, or on any subsequent day to which such proceedings may be adjourned; and if the parties cannot agree upon a valuation, then the Chief Justice shall, with the assistance of the clerk of the County Court, draw from the jury boxes of said county, the names of six disinterested freeholders of, and residents of said county, and said Chief Justice shall issue a subpoena directed to the Sheriff or other legal office, commanding him to summon said jurors to appear before him at his office, on a day to be named in such subpoena; on the day named for the meeting of said jury, if the whole number do not attend, the Chief Justice shall in like manner, draw other jurors to supply the places of those who fail to attend, who shall be subpoenaed to attend forthwith, and when a jury of six shall be made up, the Chief Justice shall administer to them an oath or affirmation, well and truly to enquire, and a true appraisement make, of the cash value of the land or lands sought to be condemned by said corporation, under the provisions of this act, and the damages which the owner or claimants may sustain in consequence of said canal. The said jury or any member thereof, shall have power to examine on oath or affirmation, to be administered by any of said jurors, all such witnesses as may be brought before

them by any party interested, and may continue their session from day to day, not exceeding three days; a majority of said jury shall agree to the appraisement, which shall be in writing, and signed by those who agree to it, and shall contain a particular description of the land or lands appraised, said appraisement shall be returned to and recorded in the office of the county clerk of the County Court, in which the land is situated; upon payment of the amount of such appraisement to the owner of the land appraised, or to the county treasurer of the county, in which the land is situated, for the use of the owner or claimant, said land shall be considered as condemned and appropriated to the use and benefit of said corporation, for the purposes contemplated by this act. Should the majority of the jury not be able to agree on an appraisement, other jurors shall be drawn, and subpoenaed, and proceed in the like manner as the original jury until an appraisement is made. The said jurors shall each be allowed one dollar and fifty cents per day for their services, and they shall assess a reasonable amount for the costs of the proceedings directed by this section, including their own pay, which shall be paid by said corporation to the Chief Justice for the use of the parties for whom it is assessed.

Sec. 8. Be it further enacted, That the said company shall have power to levy, receive and collect, such tolls upon all steamboats, or other crafts, and upon all freight carried through said canal or canals, as may be determined upon by said company, not to exceed however, three cents per ton, for each and every mile for said craft or vessel, and one-half of one cent for one hundred pounds for each and every mile, on all freights carried through said canal or canals; and that all charges or tolls shall be made upon terms of equality to all persons who may wish to navigate said canal or canals; provided, that the Legislature shall have power to alter and change said tolls if they do not reduce them in the aggregate below ten per cent per annum, on the capital stock of said company invested in said canals.

Sec. 9. Be it further enacted, That the Mayor and Aldermen of the city of Galveston, shall be, and they are hereby authorized to subscribe to the capital stock of said company, for said city, to an amount not to exceed twenty thousand dollars, and to issue bonds bearing interest, or otherwise to pledge the faith of said city to pay for the same; and the Chief Justice and the county Commissioners of the several counties on the waters of the bays and streams in this act named, shall be, and they are hereby authorized to subscribe to the capital stock of said company for their respective counties, to an amount not to exceed

twenty thousand dollars, and to issue bonds bearing interest, or pledge the faith of their respective counties to pay for the same; provided, that the Chief Justice and county Commissioners of neither of said counties, shall make such subscription unless two thirds of the qualified electors of said county, at an election to be held for that purpose, shall vote in favor of such subscription being made, and the Chief Justice of any of such counties may order such election to be held, and shall give notice of the time and object of such election, by causing notices thereof to be posted up in each precinct of the county, at least thirty days previous to such election being held; and said election shall be conducted in the manner regulating county elections, so far as the same may be applicable; and provided, also, that the said mayor and aldermen of the city of Galveston, shall not make such subscription unless two-thirds of the electors of said city, qualified to vote for city officers, at an election to be held for that purpose, shall vote in favor of such subscription being made; and the Mayor of said city of Galveston may order such election to be held, and shall give notice of the time and object of such election, by causing notices thereof to be published in at least two newspapers published in said city, for the period of twenty days previous to such election being held, and said election shall be conducted in the manner regulating city elections, so far as the same may be applicable; and further provided, that when any such subscription shall be made and bonds therefor be required by the Mayor and Aldermen of said city of Galveston, or by the Chief Justice and county Commissioners of any of said counties, it shall be their duty respectively to provide for the faithful and punctual payment of the interest, that may from time to time become due on the same, and for the payment of the principle thereof, by levying and collecting a tax on the real and personal property in the city or county for which said subscription shall be made, and bonds issued, which tax shall not be less than ten cents, nor more than fifty cents on each and every one hundred dollars taxable property in said city or county, and shall be assessed and collected and paid into the treasury of the city or county, by which it is levied, in the same manner the city or county tax in such city or county is assessed and collected; which tax shall be continued from year to year until the whole amount of the principal and interest due on said bonds, shall have been fully paid and discharged; and when collected, after deducting therefrom the expenses of assessing and collecting, shall first be applied to the payment of the interest due on such bonds, and the remainder

shall first be applied to the payment of the principal due on such bonds.

Sec. 10. Be it further enacted, That the stock-holders of the Galveston City Company, in their corporate capacity, shall be, and they are hereby authorized to subscribe to the capital stock of said company, to an amount not exceeding twenty thousand dollars, and to issue bonds bearing interest, and pledge the faith of said company, and mortgage or hypothecate any property, real or personal, belonging to said company, to secure the payment of the same.

Sec. 11. Be it further enacted, That all dividends on the capital stock of said navigation company, that may accrue to said city of Galveston, or to either of said counties, or to said Galveston City Company, shall be appropriated to the payment of the principal and interest of any bonds that may be owing by them respectively, that may have been executed under the provisions of this act, until [the] whole of said principal and interest shall have been paid and discharged; and the said navigation company is hereby authorized to pay the same accordingly.

Sec. 12. Be it further enacted, That the said company shall be, and they are hereby [authorized] to receive any donations of lots, lands or personal property, which may be made to them, to aid or assist them in carrying into effect the object of this charter, and to sell, or dispose of the same, as their interest may require.

Sec. 13. Be it further enacted, That the said navigation company shall be authorized to go into operation as soon as five thousand dollars of the capital stock shall have been actually paid in.

Sec. 14. Be it further enacted, That this corporation is hereby invested with all the rights and powers, necessary to the accomplishment of the objects for which they are incorporated, but nothing shall be construed into authority to exercise banking privileges.

Sec. 15. Be it further enacted, That unless said navigation company shall commence operations within two years, and shall complete a navigable canal from San Louis or West Galveston Bay to the waters of the Brazos River, within six years from and after the passage of this act, this act and the powers hereby granted, shall cease and be determined.

Approved, February 8, 1850.



CHAPTER CXIV.

An act to authorize Bailey English, Thomas Cowart and their associates to construct a Turnpike Road from the town of Bonham, in the county of Fannin, across the Bois d'Arc bottom to the high land on the east side of said stream, in the direction of the town of Paris in Lamar county.

Section 1. Be it enacted by the Legislature of the State of Texas, That Bailey English, Thomas Cowart and their associates be, and they are hereby created a body corporate, under the name and style of the Bois d'Arc Turnpike Company, and in that name may sue and be sued, plead and be impleaded, and may have a common seal, with full power to construct a turnpike road from the town of Bonham, in Fannin county, across the Bois d'Arc bottom to the high land on the east side of said stream, in the direction of the town of Paris in Lamar county.

Sec. 2. Be it further enacted, That as soon as said company shall complete said road, so as to render the same passable at all times, and receive a certificate stating that fact, from the County Court of Fannin county, they shall be authorised to demand and receive the following tolls, viz: For each loaded wagon, not to exceed twenty-five cents per wheel, including driver and team; and all other wagons and pleasure carriages not to exceed ten cents per wheel; for each horse or mule and rider ten cents; for loose horses, mules or cattle, not to exceed five cents per head; for each sheep, hog or goat, not to exceed two cents per head; and for each and every man or woman five cents.

Sec. 3. Be it further enacted, That said company may erect as many gates for the collection of tolls as may be deemed necessary; provided, that no person shall be required to pay toll at more than one gate for each passage, and provided further, that persons travelling part of the distance shall be required to pay full toll, if such person cross the main bridge.

Sec. 4. Be it further enacted, That if any person shall travel on said road, or drive any horses, mules, sheep, hogs or goats, or any wagon or other carriage, without paying the tolls therefor, or shall obstruct or damage said road, the said company shall have a right of action to recover such tolls or damages sustained, in any court having competent jurisdiction.

Sec. 5. Be it further enacted, That should any person or persons using said road, or travelling upon it, be detained or damaged, either in his or her person or property, by reason of the insufficiency of said road, or any bridge or tunnel constructed

thereon, or by or through negligence or malconduct of any agent of said company, then the said company shall be liable to the person or persons so detained or damaged in an action of damages, in any court of competent jurisdiction, and that said road may be seized and sold to satisfy any judgment thus obtained.

Sec. 6. Be it further enacted, That all jurors summoned to any District Court in and for said county of Fannin, and all witnesses summoned in State cases, shall at all times when serving as such, pass and repass over said road free of toll.

Sec. 7. Be it further enacted, That said company shall enjoy and exercise the privilege herein granted for the term of twenty years from and after the completion of said road, after which time it shall belong to the county of Fannin.

Sec. 8. Be it further enacted, That said company shall have two years to complete said turnpike, bridges and tunnels, from and after the first day of May in the year eighteen hundred and fifty; and in case the same is not completed in that time, then this charter to be forfeited.

Approved, February 8, 1850.

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## CHAPTER CXV.

An act to establish the time of holding the Courts in the First Judicial District.

Section 1. Be it enacted by the Legislature of the State of Texas, That from and after the passage of this act, the Courts in the First Judicial District shall commence—

In the county of Matagorda on the second Monday in March and the first Monday in October, and may continue in session two weeks;

In the county of Wharton on the second Monday after the second Monday in March and on the second Monday after the first Monday in October, and may continue in session one week;

In the county of Colorado on the third Monday after the second Monday in March and on the third Monday after the first Monday in October, and may continue in session two weeks;

In the county of Austin on the fifth Monday after the second Monday in March and on the fifth Monday after the first Monday in October, and may continue in session two weeks;

In the county of Fort Bend on the seventh Monday after the

second Monday in March and on the seventh Monday after the first Monday in October, and may continue in session one week;

In the county of Brazoria on the eighth Monday after the second Monday in March and on the eighth Monday after the first Monday in October, and may continue in session three weeks;

In the county of Galveston on the eleventh Monday after the second Monday in March and on the eleventh Monday after the first Monday in October, and may continue in session four weeks.

Sec. 2. All writs and process that have been, or may hereafter be issued from any of the District Courts of the First Judicial District, shall be considered as returnable, and shall be returned to the terms as established by this act, and they shall have the same force and effect as if they had originally been issued so returnable.

Sec. 3. This act shall take effect from and after its passage; and so much of an act to be entitled an act to amend the first, third and seventh sections of an act to define the time of holding the Courts in the several District Courts of the State of Texas, passed May 11th, 1846, passed Feb. 29th, 1848, as provides for holding Courts in the First Judicial District shall be, and is hereby repealed.

Approved Feb. 8, 1850.

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## CHAPTER CXVI.

An act to define the time of holding the Courts in the Twelfth Judicial District.

Section 1. Be it enacted by the Legislature of the State of Texas, That the District Courts in the Twelfth Judicial District shall commence and be holden as follows, to wit: In the county of Kinney on the first Mondays in March and September, and may continue in session one week; in the county of Webb on the second Mondays after the first Mondays in March and September, and may continue in session two weeks; in the county of Starr on the fifth Mondays after the first Mondays in March and September, and may continue in session two weeks; in the

county of Cameron on the eighth Mondays after the first Mondays in March and September, and may continue in session until the business is disposed of.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after the first Monday in August, 1850.

Approved, Feb. 8, 1849.

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#### CHAPTER CXVII.

An act to authorize the Commissioner of the General Land Office to receive from the Secretary of State the archives of Martin DeLeon's Colony, and deposite the same in the General Land Office.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commisioner of the General Land Office be, and he is hereby authorized to receive from the Secretary of State the archives of Martin DeLeon's colony, and deposite the same in the General Land Office of the State of Texas.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, February 8, 1850.

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#### CHAPTER CXVIII.

An act to define the boundary line between Gonzales and Caldwell counties.

Section 1. Be it enacted by the Legislature of the State of Texas, That the boundary line between Gonzales and Caldwell counties be, and the same is hereby permanently defined as follows: Beginning at the mouth of Plum Creek, on the San Marcos river, thence in a direct line to the south-west corner of Bastrop county, as defined by the act to extend and define the eastern boundary of Caldwell county, passed at the present session.

Sec. 2. Be it further enacted, That John F. Story be, and he is hereby authorized and required to run said line, at the expense of the county of Caldwell, and that this act take effect and be in force from and after its passage.

Approved, Feb. 8, 1850.

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CHAPTER CXIX.

An act more permanently locating the seat of justice of Grayson county.

Section 1. Be it enacted by the Legislature of the State of Texas, That the town of Sherman, in Grayson county, be, and the same is hereby declared the seat of justice of said county of Grayson.

Sec. 2. Be it further enacted, That so much of an act to provide for the permanent location of the county seat of Grayson county as requires the Commissioners to find the centre of said county of Grayson, and locate the county seat within three miles of the centre of said county, approved January 13th, 1848, be, and the same is hereby repealed, and that this act take effect and be in force from and after its passage.

Approved, February 8, 1850.

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CHAPTER CXX.

An act to amend an act entitled "an act to establish the Judicial Districts of the District Courts."

Section 1. Be it enacted by the Legislature of the State of Texas, That the third section of an act to establish the judicial districts of the District Courts, approved February 26th, 1848, be, and the same is hereby amended so as to read as follows:—the counties of Washington, Brazos, Leon, Limestone, Robertson, Falls, McLellan, Bell, Milam and Burleson, shall compose the third judicial district.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after the first Monday in August, in the year eighteen hundred and fifty.

Approved, Feb. 8, 1850.

## CHAPTER CXXI.

An act to extend the provisions of an act, entitled "an act to provide for ascertaining the debt of the late Republic of Texas," approved March 20th, 1848.

Section 1. Be it enacted by the Legislature of the State of Texas, That the time within which it shall be necessary for the creditors of the late Republic of Texas to present their claims for money, to the Auditor and Comptroller, be, and the same is hereby extended to the first Monday in September, in the year eighteen hundred and fifty-one, and all claims not presented by that time shall be barred.

Sec. 2. Be it further enacted, That the Auditor and Comptroller shall immediately cause a notice of this extension to be published for three months in some weekly newspaper printed in Austin, and in other respects, the said officers shall be required to perform the same duties as heretofore, in the manner contemplated in the law to which this is a supplement.

Sec. 3. Be it further enacted, That this act take effect and be in force from its passage.

Approved, Feb. 8, 1850.

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CHAPTER CXXII.

An act to provide for the investigation of land titles in certain counties therein mentioned.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Governor be, and he is hereby authorized to appoint, by and with the advice of the Senate, a Board to consist of two Commissioners, who shall hold their offices until the meeting of the next Legislature, one of whom shall understand and be conversant with the Spanish language, whose duty it shall be to receive and examine all titles and claims to land lying within the counties of Kinney, Webb, Starr, Cameron, Nueces, Presidio, El Paso, Worth and Santa Fe, which emanated from the Governments having and exercising jurisdiction over the country, prior to the second day of March, in the year eighteen hundred and thirty-six, and report the same as hereinafter provided.

Sec. 2. Be it further enacted, That the said Commissioners,

before entering upon the duties of their office, shall, before some District Judge or Judge of the Supreme Court of this State, take and subscribe the oath prescribed by the constitution, and in addition thereto, that they will not recommend any title or claim to land for confirmation which they have reason to believe is antedated, forged or fraudulent, and that they will not locate, purchase or receive by donation or otherwise, or be concerned or interested in locating, purchasing, or accepting as a donation, any land or town lot, the right or title to which may be the subject of investigation during their term of service under this act, a copy of which oath shall be filed in the office of [the] Secretary of State.

Sec. 3. Be it further enacted, That said Board of Commissioners, when appointed and qualified as aforesaid, shall open offices and enter upon their duties at the county seat of each of the said counties, as follows: at Eagle Pass, the county seat of the county of Kinney, on the first Monday of May next, and may continue in session one month; at Laredo, the county seat of Webb county, on the second Monday in June next, and may continue in session three months; at Rio Grande City, the county seat of Starr county, on the third Monday in September next, and may continue in session three months; at Brownsville, the county seat of Cameron county, on the first Monday in January, eighteen hundred and fifty-one, and may continue in session four months; at Corpus Christi, the county seat of Nueces county, on the third Monday in May in the year eighteen hundred and fifty-one, and may continue in session two months, and in the counties of Presidio, El Paso, Worth and Santa Fe, at such time and place as shall hereafter [be] provided for by law.

Sec. 4. Be it further enacted, That previous to the said Commissioners entering upon the discharge of their duties at the county seats of the said counties respectively, they shall cause notices, written or printed, in the English and Spanish languages, to be posted up at the most noted places in the county, of the time and place of their session, and requiring all persons holding claims to lands in said county to present the same, together with their evidences of right, to said Board for investigation, within the time prescribed for holding the sessions of the same within said county.

Sec. 5. Be it further enacted, That said Board shall take cognizance of all claims to lands within the county in which they are sitting, held under the authority of the Government having and exercising jurisdiction in said county, provided such

claim had its origin in good faith, prior to the said second day of March, in the year eighteen hundred and thirty-six.

Sec. 6. Be it further enacted, That each of said claimants shall lay before and file with said Board, written in the English language, a full description of the land claimed, setting forth particularly its situation, boundaries and extent, and the titles, or evidences of titles, or right under which the same is held or claimed, and the said commissioners shall investigate the same [in] accordance with the principles of equity, and report the same for confirmation, when the title is perfect, or when imperfect, when the same might have been matured into a perfect title under the laws, usages and customs of the government under which it originated, had its sovereignty over the same not passed to, and been vested in the Republic of Texas; provided said title, or said imperfect title or right was originally founded in good faith.

Sec. 7. Be it further enacted, That each of said claimants shall, at the time of filing said claim, accompany the same with an affidavit made before said Board, that the title or evidence of his claim submitted to them for investigation, is not forged nor ante-dated, but that the same is genuine, and that he has not sold or alienated the same or any part thereof, nor made any contract for such sale or alienation, and that he is the true and lawful owner thereof, and that all the facts set forth in his petition are true to the best of his knowledge and belief; and any claimant swearing falsely as to any one of the facts herein required to be sworn to, shall be guilty of perjury, and on conviction thereof, shall be punished accordingly.

Sec. 8. Be it further enacted, That said Commissioners shall have power to administer oath and to issue subpoenas for all witnesses which they may find it necessary to examine touching said claims, either in support of, or against their validity, which subpoenas shall be served by any legal officer of the county in which said Board shall be sitting, or by any other person appointed by said Board for that purpose; and the witness so summoned shall be bound to appear before said Board and give testimony, under the penalties prescribed by law against defaulters or contumacious witnesses in the District Courts of this State.

Sec. 9. Be it further enacted, That the said Board shall make an abstract of every claim so filed, and the evidence adduced in support of, or against it, and shall accompany the same with a statement of their opinion of its genuineness and validity, and whether the same ought to be confirmed or rejected, having a due regard to the principles of justice, and to the laws, ordinances, rules and customs of the government and authorized political authori-



ties under which the claim originated, which reports, accompanied by the muniments of title, made previous to the session of the next Legislature, shall be made to the Governor in time to be submitted to the Legislature at the commencement of the next session.

Sec. 10. Be it further enacted, That the Commissioners and attorney appointed under the authority of this act shall not, for themselves collectively or individually, for, or in the name of any other person, purchase or receive by donation or otherwise, any parcel or tract of land or town lot, which may, in whole or in part, be the subject of their investigation, nor shall they receive any compensation for their services or action in relation to such claims, other than such as is provided for by this act, and if either of said Commissioners and attorney for the State shall violate the provisions of this act, he shall be subject to indictment, and upon conviction, may be fined in any sum not more than ten thousand dollars, and imprisoned in the penitentiary for such time as the court may direct, not less than six months nor more than two years.

Sec. 11. Be it further enacted, That the said Commissioners shall be entitled to receive from the Treasury of this State the sum of fifteen hundred dollars annually each, from the fifteenth day of April until the first Monday of November in the year eighteen hundred and fifty-one, to be paid quarterly, and the said amount is hereby appropriated out of any money in the treasury not otherwise appropriated.

Sec. 12. Be it further enacted, That the sum of two hundred dollars, or as much thereof as may be necessary, be, and the same is hereby appropriated for the purchase of books, stationery and such contingent expenses as are indispensable for the fulfilment of the duties required by this act, provided, that before a final settlement of the accounts of said Commissioners, they shall file with the Comptroller just and proper vouchers for the expenditure of the said amount.

Sec. 13. Be it further enacted, That the provisions of this act shall in no manner affect patents, surveys or locations made in the Republic or State of Texas previous to its passage, but that they shall have the same validity, and be adjudicated in the same manner as if this law had not passed, and no patent shall issue on locations which have been, or which may be made until hereafter authorized by law, except those claims heretofore surveyed in the county of Kinney, which may be patented.

Sec. 14. Be it further enacted. That in case of vacancy in the office of either of the Commissioners provided for by this act,

by death, or by resignation or otherwise, the Governor shall be authorized to fill such vacancy.

Sec. 15. Be it further enacted, That every claimant to land under this act, shall pay to said Commissioners the sum of two dollars for each and every claim or application for the investigation contemplated in this act, and besides said sum of two dollars, every claimant shall pay the further sum of one dollar for every application for each and every town lot or tract of land, containing one acre or less; the sum of three dollars for every tract of land containing one labor, one hundred and seventy-seven acres, or less; the sum of five dollars for one league of land, or part of a league greater than a labor, and if there be more than one league, the sum of five dollars for every league in the claim presented for examination to the said Commissioners, provided, that no further fees shall be required of those whose titles may be confirmed by the Legislature, except such fees as are by existing laws demanded at the General Land Office.

Sec. 16. Be it further enacted, That said Commissioners shall keep an accurate account of the moneys received as directed by the fifteenth section of this act, and shall pay the sum into the treasury of the State, and they shall severally be required to give a bond in the sum of ten thousand dollars each, with two good securities, payable to the State of Texas, to be approved by either of the District Judges, conditioned, to render a correct return of, and to pay into the treasury all the moneys received by them in accordance with the fifteenth section of this act.

Sec. 17. Be it further enacted, That the Governor, by and with the consent of the Senate, if in session, shall appoint an attorney, whose duty it shall be to represent the interests of the State, and whose compensation shall be the same as that of the Commissioners, and in case of a disagreement between said Commissioners, they shall state in writing the facts or points with regard to which they disagree, and each Commissioner shall assign the reasons for his opinion, and said attorney shall take the same oath prescribed in this act to be taken by the Commissioners, in addition to the oath prescribed for District Attorneys.

Sec. 18. Be it further enacted, That no sale by any claimant of lands under the provisions of this act shall take place until after a title to the same shall have been confirmed to the original claimant or claimants; but all such sales of lands, or claims to lands, shall be void, and no claims to lands in the hands of a

third person shall be recognized by the Board of Commissioners, unless the sale or transfer of the same was made prior to the passage of this act.

Sec. 19. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, February 8th, 1850.

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## CHAPTER CXXIII.

### An act to incorporate the Marshall Rail-way and Plank Road Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That a body politic and corporate be, and the same is hereby created and established, under the name and style of the "Marshall Rail-way and Plank Road Company," with capacity to make contracts, to have succession and a common seal, to make by-laws for its government, and in its said corporate name, to sue and be sued, to grant and to receive, and generally to do and perform such acts and things as may be necessary and proper for, or incident to the fulfilment of its obligations or maintenance of its rights under this act, and consistent with the provisions of the constitution of this State.

Sec. 2. That the said company be, and hereby is established with the right of making, owning and maintaining a Railway or Plank Road, from Marshall to such point on the Louisiana line as may be considered by said company most suitable for extension to Red River or the Lake, or to such point on Lake Soda as they may deem proper.

Sec. 3. That James McCown, Allen D. Burress, John Graves, David Hill, Edward Clark, John H. Mallory, John S. Wilson, John R. Taliafero, William S. Richardson, Ludwick P. Alford, F. H. Blades, Erwin M. Wilder, John J. Webster, Josiah D. Perry, and Henry D. Bullard, and such other persons as they may associate with them for the purpose, are hereby appointed Commissioners, and invested with the right and privilege of forming and organizing the said company, of obtaining subscriptions to the capital stock, and distributing the shares thereof, and generally of taking such lawful measures to secure the effectual organization and successful operation of said company as they may deem expedient.

Sec. 4. That the capital stock of said company shall be divided into shares of one hundred dollars each, and the holders of such shares shall constitute such company, and each member shall be entitled to one vote, in person or by proxy, for each and every share he may own; and such shares of stock shall be transferrable alone upon the books of the company, which books shall be kept open for the inspection of any stockholder who may wish to examine them at the office of the company, in proper business hours.

Sec. 5. That the affairs and business of the said company shall be conducted and managed by a Board of Directors not less than five nor more than eleven, who shall be elected by the company at such time as the said Commissioners may appoint, and annually thereafter; Provided, that in case of failure so to elect at the stated time, the Board of Directors incumbent shall continue in office until there be an election, the time for which may be fixed by said Board, whereof reasonable notice shall be given.

Sec. 6. That no person shall be eligible as a Director, unless he be the owner of five shares of the capital stock. The said Board shall elect a President from their number, fill vacancies, and appoint from among their number such officers as they may deem necessary, and require security for the faithful performance of their duties, also to prescribe the time for the payment of instalments or assessments upon the stock, and the amount of such instalments, or assessments; to declare the forfeiture of such stock for non-payment, and to do, or cause to be done all other lawful acts or things which they may deem necessary or proper, in conducting the business of said company. A majority of said Board of Directors shall constitute a quorum for doing business; all instalments [instruments] in writing executed by the President and Secretary, under the seal of the company, with the consent of the Board of Directors, shall be valid and binding.

Sec. 7. That if any person shall negligently or designedly injure or destroy any of the fixtures, buildings, machines, materials or improvements of the company, he shall be subject to indictment therefor, and on conviction, may be punished by fine and imprisonment, and shall also be liable to said company in a civil action for damages.

Sec. 8. That the said Board shall have power to elect an agent, who shall be a member of said company, and whose name as

such shall be made known to the public, and by whom the business of the corporation may be conducted under the powers given him.

Sec. 9. This act shall take effect from its passage.

Approved, February 8, 1850.

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CHAPTER CXXIV.

Joint Resolution authorizing the government of the United States to construct a National Rail Road through the limits of the State of Texas, to the Pacific Ocean.

Section 1. Be it resolved by the Legislature of the State of Texas, That the State of Texas, hereby grants and guarantees to the United States, the right of way through this State, for a National Rail Road, to be located and constructed under the authority of an act of Congress, from the Gulf of Mexico or Mississippi River, to the Pacific Ocean, and hereby authorizes the officers, agents and contractors, acting under an act of Congress for that purpose, to locate, construct, use and control the said Railroad; and such Railroad may commence at such point in this State on the coast of the Gulf of Mexico, or may enter this State at such point on the eastern or north-eastern boundary line of the State, and leave the same at such point on its western boundary, as may be determined on by or under an act of Congress; and when lands or the right of way belonging to individuals may be required for the construction of the said road, and the owners from any cause whatever refuse to sell the same, the officers and agents duly authorized by virtue of an act of Congress to locate and construct said road, are hereby empowered on the payment of just compensation, to appropriate the said lands or right of way to the use of said road.

Sec. 2. Be it further resolved, That the State of Texas, agrees to extend to the United States all reasonable and proper facilities and co-operation in the construction of said road, and hereby declares that all public lands within one hundred yards of the centre of the road, shall belong to and vest in the United States; and all locations, surveys and patents, made on the same, after the road has been definitely laid out, shall be void.

Sec. 3. Be it further resolved, That should the line of said road commence at any point in this State on the coast of the Gulf

of Mexico, or enter this State at any point on the eastern or north-eastern boundary south of the thirty-fourth degree of latitude, and leave this State on its western boundary at the town of El Paso on the Rio Grande, or at some point on the said river not farther than one hundred miles distant from the said town, the State of Texas in addition to the right of way and the grant of lands heretofore guaranteed and declared, doth hereby agree, that all public lands lying within ten miles from the line of one hundred yards from the centre of the Railroad above granted, shall be divided into sections of six hundred and forty acres each, or some less size when from the nature of the ground such may be more convenient; and that every alternate section shall belong unto and vest in the United States, the said alternate sections to be appropriated to the construction of and for the use and benefit of said road; and the said alternate sections which may under the provisions of this act be allotted to the State of Texas, and all the proceeds arising from the sale thereof, shall be, and the same are hereby set apart, reserved and appropriated exclusively for the payment of the public debt of the late Republic of Texas; and all locations made upon the lands herein reserved, (after the route of said road has been designated,) by virtue of any headright certificate, bounty warrant or land scrip, shall be, and are hereby declared null and void; provided, the expense of laying off the sections and alternate sections, shall be incurred by the United States; and provided further, that if the government of the United States, shall not have adopted this route for the construction of the road, by the fourth day of March, 1851, then, and in that case, this resolution shall cease, and have no force or effect.

Sec. 4. Be it further resolved, That each alternate section is hereby reserved to the State, and shall not be subject to location; but shall be held and reserved to the use of the State, and subject to future disposition by the Legislature.

Sec. 5. Be it further resolved, That in granting the provisions in this act, they are granted upon the express condition, that the State of Texas reserves the right to construct or authorize to be constructed, any other Railroad within her limits which she may deem proper, which may connect with the main track of the Railroad to be constructed by the United States, or by its authority.

Sec. 6. That the Governor of this State, is hereby requested to furnish our Senators and Representatives in the United States Congress, with a copy of these resolutions.

Approved, February 9, 1850.

CHAPTER CXXV.

An act for the relief of the heirs of those who fell with Fannin, Ward, Travis, Grant and Johnson, during the War with Mexico in the years 1835 and 1836.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Adjutant General, shall as early as practicable after the passage of this act, make out from the records of his office, copies of the muster rolls of the several companies that were under the command of Fannin and Ward, and a list of the names of those who fell in the Alamo with Travis, and a list of those who fell with Grant, and under the command of Johnson, during the war with Mexico, in the year eighteen hundred and thirty-six, and deliver the same, certified under his seal of office, to the Commissioner of the General Land Office; who shall file the same among the archives appertaining to his office.

Sec. 2. Be it further enacted, That as soon as the copies of muster rolls, and lists mentioned in the first section of this act, shall have been filed in accordance with the provisions of this act, the Adjutant General shall, and he is hereby required to issue to the heirs of those who fell with Fannin, Ward, Travis, Grant or Johnson, their heirs, or legal representatives, attorneys or assigns, certificates for headrights in right of those who were heads of families, for one league and labor of land—and in right of those who were single men, for one third of a league of land.

Sec. 3. Be it further enacted, That said certificates shall be issued in the names of the parties originally interested, and as those who fell with Fannin, Ward, Travis, Grant or Johnson, as the case may be, shall be signed by the Adjutant General, and certified under his seal of office, and counter signed by the Commissioner of the General Land Office.

Sec. 4. Be it further enacted, That this act shall extend only to the heirs of those who fell as mentioned in the second section of this act, and of them only, to those in whose right no certificates for headrights have been issued.

Sec. 5. Be it further enacted, That the name appearing on the muster rolls, or the lists filed in accordance with the first section of this act, and the name not appearing on the list of certificates approved by the traveling board of Land Commissioners, or on the several lists returned by clerks of the District Courts, in cases where parties have received their certificates in suits instituted in the several District Courts, shall be sufficient evidence

that the parties in interest are entitled to, and have not received their certificates.

Sec. 6. Be it further enacted, That when it may appear from the list of land certificates, approved by the traveling board of Land Commissioners, or the lists returned by any of the several clerks of the District Courts, that a certificate has been issued to an administrator, or to the heirs of a person of the same name, with one whose name is on the muster rolls or lists mentioned in the first section of this act, then and in that case, the Adjutant General and the Commissioner of the General Land Office, shall constitute a board of investigation, and may sit at any time to hear the evidence produced by the applicants; and upon full and satisfactory proof that the said certificate issued in right of a person of the same name, but who was not one of those who fell with Fannin, Ward, Travis, Grant or Johnson, a certificate shall be issued for the quantity of land, to which the applicant is entitled.

Sec. 7. Be it further enacted, That the applicants for land certificates under this act, who claim a league and labor, shall file in the office of the Adjutant General, the affidavit of two respectable witnesses, sworn to and subscribed before any judge of the District Court, judge of the Supreme Court, Adjutant General, or any Commissioner appointed by the Governor of the State, stating and affirming that the individual in whose right the claim is made, was a man of family; the officer administering the oath shall certify, that of his own knowledge or from satisfactory proof produced to him, the witnesses who swear are respectable persons, and entitled to credit; and in all cases where such affidavit is not filed and certified as aforesaid, the certificate shall issue for one third of a league.

Sec. 8. Be it further enacted, That in case there is no list on file in the office of the Adjutant General, of the names of those who fell with Grant and under Johnson, then and in that case, the applicant shall apply to the Adjutant General and Commissioner of the General Land Office, who shall sit as a board of investigation as mentioned in the fifth section of this act, and produce the affidavit of two respectable witnesses, sworn to and certified as in the seventh section of this act required and directed, stating that the individual in whose right the claim is made, was actually with said Grant and Johnson; that they were killed by the Mexicans, or that they have never been heard of since they were under the command of Grant or Johnson; and that the fifth section shall apply to applicants under this section so far as it is applicable.

Sec. 9. Be it further enacted, That the acts required to be



done by the Adjutant General and the Commissioner of the General Land Office, shall appertain to the duties of their respective offices; that certificates shall issue free from charge, and patents shall issue on surveys made under said certificates as in other cases, in the name of the party originally entitled to the same.

Approved, February 9, 1850.

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CHAPTER CXXVI.

An act declaring a portion of Caney Creek in Matagorda county, a public highway, and providing for the removal of the obstructions therein.

Section 1. Be it enacted by the Legislature of the State of Texas, That Caney Creek in the county of Matagorda, from the sugar houses of Messrs. C. & T. B. Powers, to its mouth, be, and the same is hereby declared to be a public highway, subject to the same laws as other highways.

Sec. 2. Be it further enacted, That it shall be competent for the County Court of Matagorda county, to lay off and apportion said stream within the limits above designated into sections; the hands subject to road duty, belonging to the planters on the environs of said stream contiguous to the respective sections of said stream, in the same manner as hands are apportioned upon other highways; to remove obstructions, and facilitate the navigation of said stream; to appoint overseers, and do everything that may be conformable with the powers and duties of such courts.

Sec. 3. Be it further enacted, That nothing contained in this act shall authorize the appropriation of the private canal of Abraham Sheppard, near the mouth of Caney Creek, as a public highway; but that the rights in, and control of said private canal shall remain as they were before the passage of this act; and that this act take effect and be in force from and after its passage.

Approved, February 9, 1850.

## CHAPTER CXXVII.

An act for the relief of certain persons, formerly Prisoners of War in Mexico.

Sec. 1. Be it enacted by the Legislature of the State of Texas, That all the volunteers captured at Mier and at Santa Fe by the Mexican forces, shall be entitled to receive pay at the rate of twenty-two dollars and fifty cents per month, from the respective times of their mustering into service, until one month after the time at which the main bodies of said volunteers were released by the Mexican Government; and it shall be the duty of the Auditor and Comptroller to issue to each of said volunteers, or his heirs, or representatives claiming the same, a certificate for the amount to which he may be entitled under the provisions of this act; and the further sum of sixty-five dollars to each of said volunteers, as compensation for the loss of his horse, arms, and accoutrements, to be added to the amount of pay aforesaid, and included in the said certificate, which certificate shall be issued to the person or persons entitled to the same, upon making proof as hereinafter required, and shall be audited *par* claim against the late Republic of Texas.

Sec. 2. Be it further enacted, That the proof required to entitle any person so claiming, to receive such certificate, shall be as follows, viz: First, any of said volunteers, or his heirs, or representatives, who shall produce his discharge signed by any officer of the company to which he belonged, at the time of his capture, countersigned by the officer in command of his regiment or battalion, shall be entitled to the benefit of this act: Secondly, the certificate of the captain commanding the company in which such volunteer served at the time of his capture, that he was a volunteer in said captain's company at the time of his capture, and was actually taken and imprisoned: Thirdly, if the captain of his company should be dead, or beyond the limits of the State, then the company officer next in rank, who is living within the State, shall make such certificate: Fourthly, if no officer of such company be living within the State, then, any two members of such company, non-commissioned officers or privates shall make oath in writing before any officer in this State, authorized by law to administer oaths, that such volunteer was a member of their company, that he served up to the time of his capture, and that he was actually imprisoned: and such certificate or affidavit shall be sufficient proof to entitle the applicant to all the benefits of this act.

Sec. 3. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, February 9, 1850.

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CHAPTER CXXVIII.

An act granting to Isaac Dewees and Thomas M. Brown, the privilege of establishing a Ferry across the River Sabine.

Section 1. Be it enacted by the Legislature of the State of Texas, That Isaac Dewees and Thomas M. Brown, and their heirs or assigns, be, and they are hereby permitted to establish and keep a ferry across the river Sabine, for and during the term of ten years, from and after the passage of this act; at a point on said river in front of the town of Sabine, where a ferry was heretofore established and granted to Greenbury Cooke, by the Legislature of Louisiana.

Sec. 2. That the said Dewees and Brown, their heirs or assigns, shall be bound during the term aforesaid, to keep in good order, a boat or flat, sufficient at all times to transport and ferry across said Sabine river, all wagons, horses, cattle, persons and property, with safety and convenience, and to keep and maintain the banks on each side of said river to low water mark, so as to ensure the safe embarkation and disembarkation of all persons and property ferried across said river, at said ferry.

Sec. 3. That the said Dewees and Brown, their heirs or assigns, shall be bound to keep and maintain the said ferry and banks in the manner herein provided, under the penalty of ten dollars for each and every day that they shall neglect so to do.

Sec. 4. That the said Dewees and Brown, their heirs or assigns, shall annually execute and deliver to the County Court of Sabine county, a bond in the same manner as required of persons licensed to keep a public ferry by the County Court; and the County Court of Sabine county are hereby authorized to regulate the tolls of said ferry, in the same manner as they are authorized by law to regulate the tolls of ferries generally; and such proceedings may be had on any bonds so given by the said Dewees and Brown, their heirs or assigns, as on bonds required by law to be given by ferrymen generally.

Sec. 5. Be it further enacted, That this act take effect, and be in force from and after its passage.

Approved, Feb. 9, 1850.

## CHAPTER CXXIX.

An act to authorize the county of Harris to levy and collect a Special Tax, not to exceed one-half of the State Tax of said County.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Chief Justice of Harris county, shall give notice to the citizens of said county, one month before the first Monday in August, in the year eighteen hundred and fifty, that an election will be held on that day, by the qualified electors of said county, to determine whether a special tax, not to exceed one half of the State tax of the county, shall be levied upon all the citizens and taxable property of the county, for the years eighteen hundred and fifty and eighteen hundred and fifty-one; and that said election shall be conducted under the law regulating county elections, so far as the same is applicable.

Sec. 2. That if a majority of all the qualified electors of the county, voting at said election, shall vote in favor of levying and collecting said special tax, then the County Court of said county shall direct the Assessor and Collector of the county, to collect said special tax, under the law regulating the collection of county taxes, so far as the same is applicable.

Sec. 3. That the County Court shall apply the money so collected to the building of a Jail in and for said county, and to the redemption of the bonds, issued, or to be issued to Messrs. Thompson and King, on their contract for building a Courthouse for said county, and the remainder of said tax, if any there be, after providing for the objects, hereinbefore mentioned, shall be appropriated to the school fund of said county.

Sec. 4. That this act take effect and be in force from and after its passage.

Approved, February 9, 1850.

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CHAPTER CXXX.

An act to provide for the election of a Judge and District Attorney, for the Twelfth Judicial District.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Governor of this State be, and he is hereby re-

quired to issue his proclamation, commanding that an election be held on the first Monday in August next, in the Twelfth Judicial District, for a District Judge, and a District Attorney for said district, in the manner provided in the Constitution of this State.

Sec. 2. Be it further enacted, That the returns of the election herein provided for, shall be made to the Chief Justice of Starr county and by him returned to the office of the Secretary of State, and the persons receiving the greatest number of legal votes, shall be commissioned by the Governor.

Approved, February 9, 1850.

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#### CHAPTER CXXXI.

An act requiring the District Judge of the Sixth Judicial District, to hold Special Courts in the County of Panola.

Section 1. Be it enacted by the Legislature of the State of Texas, That when from any cause, the District Judge of the Sixth Judicial District, shall fail to hold a District Court in the county of Panola, during the time prescribed by law, it may, and shall be lawful for the Judge of said District Court, to hold a Special Term of the Court in and for such county, for the trial of causes civil and criminal, upon giving thirty days notice of the time of holding said special term, which said notice shall be posted up at the courthouse door, and published in some newspaper published in said county, if there be one, if there be none, then in the nearest newspaper published in one of the adjoining counties.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, February 9, 1850.

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#### CHAPTER CXXXII.

An act to organize the County of Trinity.

Section 1. Be it enacted by the Legislature of the State of Texas, That Jesse James. Benjamin B. Ellis, Solomon Adams. James Marsh, Henry Ward, John Gallion and M. Duke Horns-

by, Commissioners of said county, or a majority of them, shall be hereby authorized to appoint managers to hold elections at specified times and places in said county, after at least fifteen days notice thereof, for a Chief Justice, Sheriff, Coroner, Clerk of the District Court, Clerk of the County Court, and four County Commissioners according to the laws regulating general elections, and shall require the returns thereof to be made to them within the time specified by law.

Sec. 2. That said Commissioners shall give certificates of election to the persons elected, and shall make returns of the said election to the Secretary of State within thirty days thereafter.

Sec. 3. That the persons elected, shall enter upon the discharge of their respective official duties, immediately after taking the oath of office, and giving bond as required by law, and that this act, shall have effect from its passage.

Approved, February 9, 1850.

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#### CHAPTER CXXXIII.

An act to provide a remedy for the loss or destruction of Records and papers appertaining to proceedings in the Courts of this State.

Section 1. Be it enacted by the Legislature of the State of Texas, That when the records and papers, or any part thereof, appertaining to the proceedings in any court of this State may have been, or may hereafter be lost or destroyed, the same may be supplied by copies duly certified, which shall have the same force and effect as the originals; and when such copies cannot be produced, then the contents of the records or papers so lost or destroyed may be established by other proof, at the trial of the cause, so that such loss or destruction shall work no injury or alteration in the rights of the parties concerned.

Sec. 2. Be it further enacted, That whenever any such loss or destruction of papers or records may occur, any party to the proceedings may file a motion in the cause, which shall be verified by oath, setting forth the loss or destruction, and when certified copies cannot be produced, the substance of the contents of the

writings lost or destroyed [shall be received,] and the cause shall then proceed in the ordinary way.

Sec. 3. Be it further enacted, That this act shall take effect from and after its passage.

Approved, February 11, 1850.

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CHAPTER CXXXIV.

An act supplementary to an act regulating Elections, passed March 16th, 1848.

Section 1. Be it enacted by the Legislature of the State of Texas, That the territory comprised within the limits of the following named counties shall compose the first Congressional District of the State of Texas, and shall elect one Representative to the Congress of the United States, to wit: Anderson, Angelina, Bowie, Cass, Cherokee, Collin, Cooke, Dallas, Denton, Fannin, Grayson, Harrison, Henderson, Hopkins, Houston, Hunt, Jasper, Jefferson, Kaufman, Lamar, Liberty, Nacogdoches, Newton, Panola, Polk, Red River, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Tyler, Trinity, Upshur, Van Zandt and Wood.

Sec. 2. The territory comprised within the limits of the following named counties shall comprise the second Congressional District of the State of Texas, and shall elect one Representative to the Congress of the United States, to wit: Austin, Bastrop, Bell, Bexar, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Cameron, Colorado, Comal, De Witt, Ellis, El Paso, Falls, Fayette, Fort Bend, Galveston, Gillespie, Goliad, Gonzales, Grimes, Guadalupe, Hays, Harris, Jackson, Kinney, Lavaca, Leon, Limestone, Matagorda, McLennan, Medina, Milam, Montgomery, Navarro, Nueces, Presidio, Refugio, Robertson, San Patricio, Santa Fe, Starr, Tarrant, Travis, Victoria, Uvalde, Walker, Washington, Webb, Williamson, Wharton and Worth.

Sec. 3. The several counties which are, or shall be comprised in each Judicial District of this State, shall compose a district for the election of a District Judge and District attorney.

Sec. 4. An election shall be held on the first Monday in August, one thousand eight hundred and fifty, for an Attorney-General, Comptroller of Public Accounts, State Treasurer, and one District Attorney for each Judicial District, and it shall be the

duty of the Governor, whenever a vacancy shall occur, from any cause, in the office of Justices of the Supreme Court, Judges of the District Court, Commissioner of the General Land Office, Attorney-General, Comptroller of Public Accounts, Treasurer of the State or District Attorney, to order a special election to fill such vacancies, after thirty days notice, and whenever the term of any of said officers shall expire during the year previous to any regular election for State or County officers, it shall be the duty of the Governor to order an election to be held on the first Monday in August previous to the expiration of said term, and the person so elected shall qualify and enter on his duties at the expiration of such term; and it shall be the duty of the Governor to issue his proclamation ordering all elections directed under the provisions of this act, at least thirty days before the period established for such elections.

Sec. 5. In case of death, resignation, removal or disability of any present or future incumbent of any of the offices above mentioned in the preceding section, the Governor shall appoint an officer pro tem. in his stead, to discharge the duties of such officer, until the same shall be filled by an election under the provisions of this act. In case of vacancy in the office of Comptroller of Public Accounts, or State Treasurer, the Governor shall immediately make a temporary appointment of some suitable person to fill such vacancy, until the person elect shall have been duly qualified; and the person so appointed shall give like bond as is required of those officers, and discharge all such duties as is required of them by law, and be subject to like penalties for malfeasance in office.

Sec. 6. All the provisions of the act to which this is a supplement, so far as they can apply, are hereby declared to apply to elections for Governor, Lieutenant-Governor, Justices of the Supreme Court, Representatives to the Congress of the United States, Commissioner of the General Land Office, Attorney-General, Comptroller of Public Accounts, State Treasurer, Judges of the District Courts and District Attorneys.

Sec. 7. The Chief Justices, or County Commissioners, in cases wherein they are authorized by law to discharge the duties of Chief Justices of the several counties of the State, shall promptly make duplicate returns of the elections for Governor and Lieutenant-Governor, carefully sealed up, one of which shall be transmitted to the seat of Government, and directed to the Speaker of the House of Representatives, endorsed, election returns of \_\_\_\_\_ county for \_\_\_\_\_, and the other shall be deposited in the office of the clerk of the county court.



Sec. 8. The Chief Justices, or the County Commissioners, in cases wherein they are authorized by law to discharge the duties of Chief Justices of the several counties of the State, or district as the case may be, shall promptly make duplicate returns of elections for officers named in the sixth section of this act, except for Governor and Lieutenant-Governor, carefully sealed up, one of which shall be transmitted by them to the seat of Government, directed to the Secretary of State, and endorsed "Election returns of county for \_\_\_\_\_;" the other shall be deposited in the office of the clerk of the county court.

Sec. 9. On the sixtieth day after every election, as provided for in this act, the Secretary of State, in presence of the Governor and Attorney-General, or in case of vacancy or inability of either of those officers to act, then any two of said officers shall open and count the returns which shall have been made as provided in the preceding section, and the Governor shall therefor deliver a certificate of election to the person or persons who shall have received the highest number of votes for each or any of said offices.

Sec. 10. In case of a tie in any election for any officer mentioned in the fourth section of this act, a new election shall be immediately held, for which purpose the Governor shall issue his proclamation, and therein appoint the time for holding and making returns of the same.

Sec. 11. Contested elections for the office of District Attorney shall be tried by the District Judge of the District, in the county where the candidate who shall have received the certificate of election shall reside.

Sec. 12. Contested elections for the office of District Judge, shall be tried in the county of the adjoining District the county seat of which is nearest to the residence of the candidate who shall have received the certificate of election, and by the District Judge of such adjoining district.

Sec. 13. Contested elections for the office of Justice of the Supreme Court, Commissioner of the General Land Office, Comptroller of Public Accounts, Attorney-General or State Treasurer, shall be tried in the county, and by the District Judge of the District where the seat of government shall be located.

Sec. 14. Any candidate who shall intend to contest an election for any office mentioned in either of the three preceding sections, shall within thirty days after the certificate of election shall have been made, give notice to the candidate in whose favor such certificate shall have been made, of the grounds upon which he intends

to rely on the trial of such contest, and shall within the same period cause a copy thereof to be filed in the office of the district clerk of the county where such contest is to be tried.

**Sec. 15.** The party in whose favor the certificate of election shall have been made, shall within twenty days after the receipt of notice, as provided in the preceding section, cause an answer thereto to be delivered to the contesting party, and shall within the same period cause a copy thereof to be filed in the office of the district clerk of the county where such contest is to be tried.

**Sec. 16.** As soon as either party shall have complied with the requirements of the two preceding sections, he may obtain a commission or commissions to take depositions of witnesses in any part of the State, upon the same terms and under the same rules and regulations as are provided for obtaining commissions and returning depositions in civil suits.

**Sec. 17.** In case of a contested election for the offices of District Judge or District Attorney, one month shall be allowed; in case of a contested election for the office of Justice of the Supreme Court, Commissioner of the General Land Office, Comptroller of Public Accounts, Attorney-General or State Treasurer, three months shall be allowed to each party from the date of the filing of his claim, or answering, for taking testimony.

**Sec. 18.** It shall be the duty of the District Judge, in cases named in this act, at the next regular term of the court in the county where any contested election is to be tried, after the expiration of the time allowed for taking testimony, to hear and determine such contested election.

**Sec. 19.** The trial of every contested election shall be by the Judge, upon the depositions, taken in the mode prescribed in this act.

**Sec. 20.** Either party may appeal from the decision of the district Judge to the Supreme Court, and the party against whom the case shall be finally determined, shall pay all the costs of the proceeding, for which judgment shall be rendered as in other cases.

**Sec. 21.** The party receiving a certificate of election shall perform the duties of the office until the contested election is decided; and a certified copy of such decision shall be sufficient evidence for the issuance of a commission to the successful party. No commission shall issue in any case, until the time allowed for giving notice of a contested election shall have expired.

**Sec. 22.** Whenever a vacancy shall occur in the office of Re-

presentative in the Congress of the United States, before the expiration of the term of any such Representative, or whenever there shall be a called session of the Congress of the United States after the expiration of the term of the Representative, and before a regular election shall have been held, it shall be the duty of the Governor to order a special election, after thirty days notice, and the returns of any such election shall be made within forty days after said election, and in the same form as is prescribed for regular elections for said officers under this act, and all other provisions of this act relating to regular elections, shall apply to and govern the said special elections so far as they are applicable.

Approved, Feb. 11, 1850.

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#### CHAPTER CXXXV.

An act making appropriations for the support of the Government for the years 1850 and 1851.

Section 1. Be it enacted by the Legislature of the State of Texas, That the following sums, be, and the same are hereby appropriated for the use and support of the Government for the years 1850 and 1851, viz:

For salary of Governor, annually, two thousand dollars.

For salary of Private Secretary to the Governor, annually, seven hundred dollars.

For contingent expenses of the Executive Office, annually, four hundred dollars.

For the procurement of a suitable residence for the Governor, the sum of five hundred dollars, annually, in accordance with an act, approved February 16, 1848, should the same be necessary.

For salary of Secretary of State, annually, one thousand dollars.

For contingent expenses of State Department, annually, five hundred dollars.

For salary of Clerk in State Department, annually seven hundred dollars.

For salary of Comptroller, annually, twelve hundred dollars.

For Book-keeper in Comptroller's office, eight hundred dollars, annually.

For Clerk in Comptroller's office, annually, seven hundred dollars.

For contingent expenses of Comptroller's office, annually two hundred dollars.

For stationery and books for Comptroller's office, annually, two hundred and fifty dollars.

For printing for Comptroller's office, annually, three hundred dollars.

For postage for Comptroller's office, annually, two hundred dollars.

For salary of Treasurer, annually twelve hundred dollars.

For contingent expenses of Treasurer's office, annually, one hundred and fifty dollars.

For salary of Auditor, annually, twelve hundred dollars.

For contingent expenses of Auditor's office, annually, one hundred and fifty dollars.

For salary of Adjutant General, annually one thousand dollars.

For contingent expenses of Adjutant General's office, one hundred and fifty dollars, annually, including printing.

For salary of Commissioner of the General Land Office, annually, fifteen hundred dollars.

For salary of chief Clerk in the General Land Office, annually, one thousand dollars.

For salary of principal Draughtsman in General Land Office, annually, one thousand dollars.

For salary of assistant Draughtsman in General Land Office, annually, eight hundred dollars.

For salary of Spanish Clerk in General Land Office, annually, one thousand dollars.

For salary of eight assistant clerks in General Land Office, annually, seven hundred dollars each.

For books and stationery for General Land Office, annually, two hundred and fifty dollars.

For contingent expenses of General Land Office, annually, three hundred dollars.

For postage of General Land Office, annually, one hundred and fifty dollars.

For salary of Attorney General, annually, fifteen hundred dollars.

For contingent expenses of Attorney General's office, annually, one hundred dollars.

For salaries of three Judges of Supreme Court, annually, two thousand dollars each.

For pay of Sheriff for attending on Supreme Court, annually, two hundred dollars.

For pay of Sheriff for attending on Supreme Court for the year 1849, two hundred dollars.

For contingent expenses of Supreme Court, annually, two hundred and twenty-five dollars.

For payment of outstanding liabilities of Supreme Court, two hundred and forty-six dollars and thirty-seven cents.

For salaries of twelve Judges of District Courts, annually, seventeen hundred and fifty dollars each.

For salaries of twelve District Attorneys, annually, five hundred dollars each.

For compensation of Clerks of both houses of the third Legislature, per diem, four dollars each.

For compensation of Sergeant at Arms and Doorkeeper of both houses of the third Legislature, per diem, four dollars each.

For copying and printing the Laws and Journals of the third Legislature, seven thousand dollars.

For distributing the Laws and Journals of the third Legislature, and report of committee to investigate the books, etc., in Comptroller's and Treasurer's office, and report of Comptroller among the several counties of the State, fifteen hundred dollars.

For distributing the Reports of the Supreme Court and Hartly's Digest, among the several counties as required by law, five hundred dollars, or so much thereof as may be necessary.

For translating and printing such general laws and public documents as the Governor may deem advisable, in the Spanish language, in accordance with the provisions of an act, approved April 18, 1846, one thousand dollars.

For purchase of Stationery for the next Legislature, to be drawn and disbursed by the Comptroller, five hundred dollars.

For pay of Extra Clerk in the General Land Office, to copy the Records of Jasper county, in accordance with the provisions of an act, passed at the present session of the Legislature, the same as other clerks in said office, for the length of time his services for such purpose may be needed.

For copy of a map of Fisher and Miller's colony, furnished by John James, sixty dollars.

For postage of State Department for the year 1849, twenty-eight dollars and sixty-one cents.

For postage of the Executive Department for the year 1849, twenty-one dollars and twenty-two cents.

For pension of Joseph Cecil, if living, three hundred dollars, annually, and for David F. Webb, one hundred dollars annually.

For pension of disabled Seamen, annually, four hundred dollars.

For payment of outstanding liabilities of Comptroller's office, six hundred and thirty dollars.

For outstanding liabilities of Auditor's office, for the years 1848 and 1849, including notices published in various newspapers, to the creditors of the late Republic, five hundred and seventy-eight dollars, and ninety-three cents.

For outstanding liabilities of Executive and State Departments, for the years 1848 and 1849, five hundred dollars.

For pay of Electors of President and Vice President of the United States, elected in November 1848, the same mileage that is allowed members of the Legislature in going to and returning from the Seat of Government, and the same per diem pay, while necessity detained them at the Seat of Government.

For balance due C. De Morse, for printing Journals of the first Legislature, eleven hundred and ninety-two dollars and thirty-eight cents, or as much thereof as may be due said De Morse, on a proper settlement of his account.

For balance required to pay for distribution of Journals of first Legislature, ninety dollars.

For the construction and support of the Penitentiary, annually, five thousand dollars.

For amount due Wm. H. Cushney, for printing for the various Departments of the Government, three hundred dollars, or as much thereof as may be necessary.

For balance necessary for pay and mileage of Members of the third legislature, two thousand dollars, or so much thereof as may be necessary.

For balance necessary for contingent expenses of third Legislature, four thousand dollars, or as much thereof as may be necessary.

For surveying Land Scrip, annually, three hundred dollars.

For surveying Land Scrip heretofore surveyed, three hundred dollars.

For pay of Extra Clerk in Auditor's office, in 1849, fifty dollars per month, for four months.

For payment of map of San Patricio and Nueces Land District, already furnished the General Land Office, six hundred dollars.

For freight and other expenses on books and public documents sent to the State of Texas, one hundred dollars.

For amount due Cruger & Moore, for subscription to the Telegraph, under the administration of the late Commissioner of the General Land Office, twenty-five dollars, to be paid on presentation of proper vouchers to the Comptroller.

For translating and publishing the Laws of a general nature in the German language, five hundred dollars, or as much thereof as may be necessary.

For compensation of Comptroller for extra services, in discharge of the duties imposed on him in relation to the Public Debt of Texas, annually three hundred dollars.

For extra clerk hire in Comptroller's office, five hundred dollars annually, or so much thereof as may be necessary.

For hire of extra clerk in Comptroller's office, in assisting the Investigating Committee, sixty-two dollars and fifty cents.

Sec. 2. Be it further enacted, That one tenth of the annual revenue of the State, be, and the same is set apart for the purposes of Education, to be drawn from the Treasury in accordance with such laws as may be enacted.

Sec. 3. Be it further enacted, That all appropriations made previous to the meeting of the present Legislature, be, and the same are hereby cancelled, except such as may have been appropriated for individual claims; and that this act take effect, and be in force from and after its passage.

Approved, February 11, 1850.

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## CHAPTER CXXXVI.

An act supplementary to an act to restore Lands, sold for Taxes and purchased by the State, to the former Owners.

Sec. 1. Be it enacted by the Legislature of the State of Texas, That the owners of lands heretofore sold, or hereafter to be sold for the taxes of any year. anterior to eighteen hundred and fifty, shall have the right of redeeming the same at any time before the first day of January, 1852, by the parties complying with the provisions of the act, to which this is supplementary, and paying the legal Assessor's and Collector's fees for selling property, as charged by said Assessors and Collectors. Provided, that no Assessor and Collector shall charge a larger fee for advertising, selling, &c., than one dollar in each case for all sales hereafter to be made: which amount shall be paid by the purchaser, if an individual: if the State, the said fees shall be secured for the benefit of the Assessor and Collector, making the sale, on the redemption of the property.

Sec. 2. That the Assessor and Collector of the county, where each respective sale has been, or may be made, shall be compe-

tent to receive and grant certificates of redemption for land, purchased for the State under the provisions of this and the act to which this is supplementary, and, also, to receive and grant the necessary relinquishment, where individuals are the purchasers, or the owner or owners of the sold property, complying with the provisions of the laws under which such sale or sales may have been made; which Assessor and Collector shall hold for the benefit and use of such purchasers, the amount paid to him as aforesaid in the redemption of property purchased by individuals as aforesaid.

Be it further enacted, That this act and the act to which this is supplementary, take effect from and after its passage.

Approved February 11th, 1850.

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#### CHAPTER CXXXVII.

An act supplementary to an act to secure to the German Emigration Company and their Colonists, the lands to which they are entitled, and to adjust the Liabilities of said Company, approved January 21st, 1850.

Section 1. Be it enacted by the Legislature of the State of Texas, That in case of vacancy, in the office of Commissioner, to issue certificates, by death, resignation or otherwise, the Governor shall have power to fill such vacancy.

Sec. 2. That the term of twenty months from and after the first day of March, A. D. 1850, is hereby limited and allowed, for granting and obtaining certificates, under the provisions of the act, to which this is a supplement.

Sec. 3. That patents shall issue directly to the German Emigration Company, for the portion of the land to which they are entitled, under the law by contract with the Emigrants, upon the presentation of the contract with the emigrants, at the General Land Office; and the land so issued to the company, at the General Land Office, shall be subject to the same law in favor of the creditors, as the other lands are subject to, which are required by virtue of the 11th section of the act, to which this is a supplement.

Sec. 4. That this act take effect from and after its passage.

Approved, February 11, 1850.



CHAPTER CXXXVIII.

Joint Resolution in relation to a Delegation to the Southern Convention.

Whereas, a Convention of Delegates from all of the Southern States has been proposed for the purpose of consultation and mutual action on the subject of Slavery and Southern rights; and whereas, we believe it important that the people of Texas should be represented in said Convention.

Section 1. Therefore, be it resolved by the Legislature of the State of Texas, That we recommend that the people of Texas, as shall on the first Monday in March next, meet at the several places of holding elections in their different counties, and select four Delegates for each Congressional District, to represent the State of Texas in said Convention.

Sec. 2. The returns of said election for the Eastern Congressional District, shall be made to the Chief Justice of Rusk county; and the returns for the Western Congressional District, to the Department of State.

Sec. 3. Be it further resolved, That all the editors of newspapers in this State, be requested to publish the foregoing preamble and resolutions.

Approved, February 11, 1850.

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CHAPTER CXXXIX.

An act concerning the proceedings in the Supreme Court.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Clerk of the Supreme Court, shall file and carefully preserve the transcripts of all records certified to said court, and all papers relative thereto; and shall docket all causes brought to the court, putting all those from each Judicial District together upon the docket, in the order in which he shall receive them.

Sec. 2. The said clerk shall faithfully record the proceedings and decisions of said court, and certify their judgments to the courts from which the causes were brought.

Sec. 3. The causes on the docket of said courts may be tried by districts, or in such order, as to the Judges of said court, may seem best calculated to promote the interest and convenience

of the parties or their attorneys, provided, that all appeals in criminal cases, shall be called for trial before the civil causes from the same district; and all causes shall be tried at the term they are docketed, unless satisfactory cause be shown for a continuance.

Sec. 4. When an appeal from any final judgment of a District Court has been taken, and an appeal bond has been filed, or when an appeal has been taken in cases where no appeal bond is required, or when a citation has been served on a petition for writ of error, it shall be the duty of the appellant or plaintiff in error, as the case may be, to file a transcript of the record of the cause with the clerk of the Supreme Court, in the following manner:

Sec. 5. It shall be the duty of the appellant or plaintiff in error, to file a transcript of the record with the clerk of the Supreme Court, on or before the first of the term of the said court next succeeding the time when the appeal was perfected, or the citation on the petition for writ of error was served; or on or before the first day of the time during said term, that may have been designated by the Supreme Court, for the trial of causes from the district in which such appeal or writ of error was taken; provided, that such appeal was perfected or such citation was served forty days before the said first day of the term, next succeeding the taking thereof, or forty days before the first day of the time in said term, designated by said court for the trial of causes brought from said district.

Sec. 6. If the appeal was not perfected, or the citation on the petition for writ of error, was not served forty days before the first day of the next succeeding term of the Supreme Court, after the taking of such appeal or writ of error, or forty days before the first day of the time that may have been designated by the Supreme Court, for the trial of causes from the district in which such appeal or writ of error was taken, then it shall be the duty of the appellant or plaintiff in error, to file a transcript of the record with the clerk of the Supreme Court, within forty days after the time when such appeal was perfected, or such citation served, provided, such appeal was perfected, or such citation was served at any time before the first day of February next, succeeding the taking of the appeal or writ of error; but if such appeal was not perfected, or such citation was not served forty days before the first day of February next, succeeding the taking of the appeal or writ of error, then it shall be the duty of the appellant or plaintiff in error, to file said transcript as directed in the next preceding section.

Sec. 7. In case the appellant or plaintiff in error, shall fail to file a transcript of the record as directed in the two preceding sections, then it shall be lawful for the appellee or defendant in error to file with the clerk of the Supreme Court, a certificate of the clerk of the District Court in which any such appeal or writ of error may have been taken, attested by the seal of his court, and stating the time when such appeal was perfected or such citation was served; whereupon, it shall be the duty of the Supreme Court, to affirm the judgment of the court below, unless good cause be shown why such transcript was not filed by the appellant or plaintiff in error; and in cases where a bond has been given by the appellant or plaintiff in error, if a copy of such bond accompanies such certificate of the clerk of the District Court, the judgment shall in like manner be affirmed against the sureties in such bond.

Sec. 8. But in all cases where the Supreme Court shall have affirmed the judgment of the court below, under the provisions of the next preceding section, said court may at any time during the term, at which any such judgment was so affirmed, permit the transcript to be filed by the appellant or plaintiff in error, and the case to be tried on its merits, provided, the appellant or plaintiff in error, shall show to the court good cause, why the transcript was not filed by him in accordance with the provisions of the fifth and sixth sections of this act; and shall also show to said court, that he has given the appellee or defendant in error, notice of his intention to apply for such permission to file said transcript; and in cases where the Supreme Court shall adjourn within forty days after any judgment shall have been affirmed, under the provisions of the next preceding section, the Supreme Court may permit the appellant or plaintiff in error, to file said transcript on the first day of the next succeeding term, or the first day of the term that may have been designated by said court for the trial of cases from the district in which such appeal or writ of error was taken, and have said cause tried on its merits, provided, said appellant or plaintiff in error, shall show good cause why said transcript was not filed, as directed by the fifth and sixth sections of this act: and shall also, show to the court that he has given the appellee or defendant in error, notice of his intention to apply for permission to file said transcript.

Sec. 9. The appellant or plaintiff in error, shall in all cases file with the clerk of the court below, an assignment of errors, distinctly specifying the grounds on which he relies, before he takes the transcript of the record from the clerk's office, and a copy of such assignment of errors, shall be attached to and form

a part of the record; and all errors not so distinctly specified, shall be considered by the Supreme Court as waived.

Sec. 10. The first and fourth sections of an act to amend sections ten, eleven, thirteen and twenty-two, of an act to organize the Supreme Court of the State of Texas, approved 12th May, A. D. 1846, approved March 13th, 1848; and also, the tenth, eleventh, thirteenth and twenty-second sections of an act, to organize the Supreme Court of the State of Texas, approved 12th May, A. D. 1846, shall be, and the same are hereby repealed; and this act shall take effect, and be in force from and after the first day of August, 1850.

Approved, February 11, 1850.

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## CHAPTER CLX.

An act to amend the third section of the act to amend the first, third and seventh sections of the act, to define the time of holding the District Courts in the several Judicial Districts of the State of Texas, approved February 29th, 1848.

Section 1. Be it enacted by the Legislature of the State of Texas, That the third section of the above entitled act, be, and the same is hereby so amended as to read as follows, to wit:

Sec. 2. Be it further enacted, That the seventh section of said act, shall be, and is hereby amended, so that it shall hereafter read as follows, to wit: That the courts of the seventh Judicial District, shall commence in the county of Montgomery, on the second Monday's in March and September, and may continue in session one week.

In the county of Grimes, on the third Monday's in March and September, and may continue in session one week.

In the county of Walker, on the fourth Monday's in March and September, and may continue in session two weeks.

In the county of Trinity, on the second Monday's after the fourth Monday's in March and September, and may continue in session one week.

In the county of Polk, on the third Monday's after the fourth Monday's in March and September, and may continue in session one week.

In the county of Tyler, on the fourth Monday's after the fourth

Monday's in March and September, and may continue in session one week.

In the county of Jefferson, on the fifth Monday's after the fourth Monday's in March and September, and may continue in session one week.

In the county of Liberty, on the sixth Monday's after the fourth Monday's in March and September, and may continue in session two weeks.

In the county of Harris, on the eighth Monday's after the fourth Monday's in March and September, and may continue in session until the business is disposed of.

Sec. 3. That all writs and process of every kind, that have been or may hereafter be issued from any of the District Courts, of the first, third and seventh Judicial Districts, shall be considered returnable, and shall be returned to the terms as established by this act; and all such writs and process, shall have the same force and effect as if they had originally been issued, and made so returnable; and that all acts and parts of acts conflicting herewith, be, and the same are hereby repealed: and this act shall take effect from its passage.

Approved, February 11, 1850.

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## CHAPTER CXLI.

An act to carry into effect the Judgment of the Supreme Court in the suits instituted by Empressarios, and decided in their favor.

Section 1. Be it enacted by the Legislature of the State of Texas, That in all cases instituted by Empressarios, their heirs or legal representatives, which have been, or may be decided by the Supreme Court in favor of the Empressarios, where, by the decree of the court the Empressarios are entitled to land and no title has been heretofore issued, it shall be lawful for the Clerk of the Supreme Court to issue certificates for so much lands as may be decreed to the parties, which certificates shall be certified by the said clerk under his hand and the seal of said court, and deliver the same to the party interested. The said clerk shall furnish the Commissioner of the General Land Office with a list of certificates issued by him.

Sec. 2. Be it further enacted, That the several surveyors of

the State of Texas are hereby directed to receive locations, make surveys and field-notes, and record the same for the holder or owner of any such certificates, as in other cases, and the Commissioner of the General Land Office shall issue patents thereon as in other cases of good and valid certificates.

Sec. 3. [Be it further enacted,] That this act take effect from and after its passage.

Approved, February 11, 1850.

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## CHAPTER CLXII.

An act to amend the Eighth and Ninth sections of an act to establish the Judicial Districts of the District Courts, approved February 26, 1848.

Section 1. Be it enacted by the Legislature of the State of Texas, That the eighth section of the act to establish the Judicial Districts of the District Courts, approved February 26, 1848, be, and the same is hereby so amended as to read as follows, viz: That the following named counties shall compose the Eighth Judicial District, to wit: Bowie, Titus, Hopkins, Hunt, Collin, Denton, Cooke, Grayson, Fannin, Lamar and Red River.

Sec. 2. Be it further enacted, That the Ninth section of the above recited act be, and the same is hereby so amended as to read as follows, to wit: That the following named counties shall compose the Ninth Judicial District, to wit: Houston, Anderson, Henderson, Van Zandt, Kaufman, Navarro, Ellis, Tarrant and Dallas.

Sec. 3. Be it further enacted, That all laws and parts of laws conflicting with the provisions of this act be, and the same are hereby repealed, and that this act be in force and take effect from and after the first day of July next.

Approved, February 11, 1850.

CHAPTER CXLIV.

An act for the relief of bona fide claimants to land entitled to the benefits of an act entitled an act to provide for the investigation of claims therein mentioned.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby inhibited from issuing any patent or patents by virtue of any warrant, certificate or order of survey, surveyed or made, or that may hereafter be made or surveyed in that portion of the State named and designated in the act to provide for the investigation of land claims therein mentioned, passed at this session of the Legislature, until after the next regular session of the Legislature of this State, except on those claims heretofore surveyed in the county of Kinney, which may be patented.

Sec. 2. Be it further enacted, That it shall be the duty of the county surveyor of any district included in this act, embracing the territory aforesaid, to plot, or cause to be plotted under his authority, to place or cause the same to be placed and registered, and the plot and the field-notes of any claim, grant, concession or warrant of title above named, whenever such claimant or holder, his, her, or their agent or attorney in fact shall produce to him, the said surveyor, a duly authenticated certificate that such claim, grant, concession or warrant of title has been recorded in the county clerk's office in which the land claimed may be situated, and further, that he shall designate all such plots upon the county map, with proper numbers and marks, so as to show in what respect and how far a conflict may exist with them and subsequent and other surveys and designations.

Sec. 3. Be it further enacted. That it shall be the duty of each and every county surveyor in the district of country named in this act, when he shall be applied to by the holder or claimant, his agent or attorney, to survey any title, grant, or concession described herein, and have the same marked and defined, to proceed to survey the same and file and record the field-notes thereof in his office; provided the same be situated in the said surveyor's district, and for which the applicant shall pay to the surveyor such fees as are established by law; provided, further, that this act shall not be construed as a legislative expression of opinion as to the validity or invalidity of said titles of the grants

or claims which may be recorded and surveyed, until the Legislature may recognize the same, after the report made in pursuance of the provisions of the bill referred to in the caption of this act.

Approved, February 11, 1850.

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## CHAPTER CLXV.

### Joint Resolution relative to the Mails of Texas.

Be it resolved by the Legislature of the State of Texas, That our Senators in Congress be instructed, and our Representatives requested to ask of the Postmaster-General of the United States to instruct the Postmaster at New Orleans to make up separate mails for Texas, and that he be instructed to place in the mail for Houston all the letters and papers directed to the various Post Offices in the counties of Harris, Fort Bend, Austin, Washington, Burleson, Milam, Fayette, Bastrop, Travis, Hays, Robertson, Limestone, Leon, Navarro, Anderson, Houston, Liberty, Polk, Walker, Montgomery, Grimes, Williamson, Brazos, McClellan, Falls and Ellis.

Approved, February 11, 1850.

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## CHAPTER CXLVI.

Preamble and Joint Resolutions instructing our Senators, and requesting our Representatives in the U. S. Congress upon the subject of the United States District Court for Texas.

Whereas, the people of Texas are subject to great inconvenience, delay and expense in attending the sessions of the U. S. District Court at Galveston: and whereas, the rapid increase of business and the great extent of our territory, entitle the people of this State to an additional district; therefore,

Be it resolved by the Legislature of the State of Texas, That our Senators in the U. S. Congress are instructed, and our Representatives requested to urge the passage of a law creating an additional District of the U. S. District Court for the State of



Texas, and providing that a session of said court shall be held in at least two places in each District.

Be it further resolved, That the Governor of this State is requested to forward a copy of this preamble and joint resolutions to each of our Senators and Representatives in the U. S. Congress.

Approved, Feb. 11, 1850.

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## CHAPTER CXLVII.

An act to incorporate the Hart's Creek Turnpike Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That Jesse Goodman and his associates, or their assigns be, and they are hereby created a body corporate under the name and style of the Hart's Creek Turnpike Company, and in that name may sue and be sued, plead and be impleaded, and may have a common seal, with full power to construct a Turnpike Road in Titus county, across the bottom of Hart's creek, on the road running from Mount Pleasant in the direction of the town of Jefferson, in Cass county, commencing at the foot of the hill on the west side, and terminating at the highland on the east side of said stream.

Sec. 2. Be it further enacted, That as soon as said company shall complete said road so as to be passable at all times, and receive a certificate stating that fact from the county court of Titus county, they shall be authorized to demand and receive the following tolls, viz: For each loaded wagon not to exceed twelve and a half cents per wheel, including driver and team; and for all other wagons and pleasure carriages not to exceed six and one fourth cents per wheel; for each horse or mule and rider ten cents; for loose horses or mules five cents per head; for cattle not to exceed two cents per head; for sheep, hogs or goats not to exceed one cent per head; and for each and every man or woman five cents. The road to be constructed by throwing up an embankment through said bottom sufficiently wide to admit wagons and teams to pass, and to be elevated above the usual high-water mark in said bottom, and a bridge across said stream.

Sec. 3. Be it further enacted, That said company may erect as many gates for the collection of toll as may be deemed necessary; provided, that no person shall be required to pay toll

at more than one gate for each passage; and provided further, that persons travelling only a part of the road shall be required to pay full toll if such person cross the main bridge.

Sec. 4. Be it further enacted, That if any person shall travel on said road, or drive any horses, mules, cattle, sheep, hogs or goats, or any wagon or other carriage on the same without paying toll therefor, or shall obstruct or damage said road, the said company shall have the right of action to recover such toll or damage sustained, in any court having competent jurisdiction.

Sec. 5. Be it further enacted, That should any person or persons using said road, or travelling upon it, be detained, or injured in his or her person or property, by reason of the insufficiency of said road, or any bridge or tunnel constructed thereon, or by or through the negligence or malconduct of any agent of said company, then the said company shall be liable to the person or persons so detained or injured, in an action for damages in any court having competent jurisdiction; and said road may be seized and sold to satisfy any judgment thus obtained.

Sec. 6. Be it further enacted, That all jurors summoned to any district court in and for said county of Titus, and all witnesses summoned in State cases, shall at all times when serving as such, pass and repass over said road toll free; and further provided, that all citizens of said county of Titus shall pass free of charge over said road on the Sabbath Day, but this exemption shall not apply to wagons or carts passing for the transaction of business; and the citizens of said county shall not be required at any time to pay more than one half the toll allowed to be charged others by this act, nor shall said citizens be required to pay a second time the same day for passing over said road.

Sec. 7. Be it further enacted, That said company shall enjoy and exercise the privilege herein granted for the term of ten years from and after the completion of said road, after which time it shall belong to the county of Titus.

Sec. 8. Be it further enacted, That said company shall have two years to complete said bridge and turnpike, from and after the first day of June in the year eighteen hundred and fifty, and if the same is not completed in that time, then this charter to be forfeited.

Approved, February 11, 1850.

CHAPTER CXLVIII.

An act to establish the La Salle and El Paso Railway Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That a body politic and corporate, be, and the same is hereby created and established, under the name and style of the La Salle and El Paso Railway Company, with capacity to make contracts, to have succession and a common seal, to make by-laws for its government, and in its said corporate name, to sue and be sued, to grant and to receive, and generally, to do and perform all such acts and things as may be necessary or proper for, or incident to the fulfillment of its obligations, or the maintenance of its rights, under this act, and consistent with the provisions of the constitution of this State.

Sec. 2. That the said company be, and hereby is invested with the rights of making, owning, and maintaining a Railway from La Salle, or such other point on the Bay of Matagorda, as the said company may deem most advantageous, to such points on the Rio Grande, near El Paso del Norte, in the State of Chihuahua, as may be found most eligible for the construction of a continuous Railway to the Pacific Ocean, at or near San Diego, with the privilege of making, owning and maintaining such branches to the Railway as they may deem expedient.

Sec. 3. That Levi Jones, and such other persons as he may associate with him for the purpose, are hereby appointed commissioners, and invested with the rights and privileges of forming and organizing said company, of obtaining subscriptions to the capital stock, and distributing the shares thereof; and generally, of taking such lawful measures to secure the effectual organization and successful operation of said company, as they may deem expedient.

Sec. 4. That the capital stock of said company shall be divided into shares of five hundred dollars each, and the holders of such shares shall constitute the said company, and each member shall be entitled [to] one vote in person or by proxy, for each and every share he may own, and such shares of stock shall be transferable alone upon the books of the company, which books shall be kept open for the inspection of any stock-holder, who may wish to examine them, at the office of the company in proper business hours.

Sec. 5. That the affairs and business of the said company, shall be conducted and managed by a Board of Directors, not to exceed nine in number, who shall be elected by the company, at such time as the said commissioners may appoint, and annually

thereafter; provided, that in case of failure so to elect at the stated time, the Board of Directors incumbent shall continue in office, until there be an election; the time for which may be fixed by said board, whereof reasonable notice shall be given.

Sec. 6. That no person shall be eligible as a Director, unless he be owner of at least five shares of the capital stock; and the said board shall elect a President from their number; shall fill vacancies occurring from death, resignation or otherwise; have power to appoint a Secretary and such other officers as they may consider necessary, and to require security for the faithful performance of their duties, also, to prescribe the time for the payment of instalments or assessments upon the stock, and the amount of such instalments or assessments: to declare the forfeiture of such stock for non payment; and to do or cause to be done all other lawful acts or things which they may deem necessary or proper in conducting the business of said company. A majority of said Board of Directors shall constitute a quorum for doing business. All instruments in writing executed by the President and Secretary under the seal of the company, with the consent of the Board of Directors, shall be valid and binding.

Sec. 7. That if the said company shall not commence its operations within three years from the first day of June, 1850, and shall not have completed at least two hundred miles of the said Railway, within five years thereafter, then and in such case, the rights powers and privileges herein granted to the said company for the construction of the said Railway, shall cease and determine.

Sec. 8. That the said company shall have the right of constructing bridges and other improvements upon and over any water course bordering upon, or crossing the said Railway or any of its branches; provided, that the navigation of such water course shall not be obstructed thereby.

Sec. 9. That if any person shall negligently or designedly injure or destroy any of the fixtures, buildings, machines or improvements of the company, or any portion of the said Railway or its branches, he shall be subject to indictment therefor, and on conviction may be punished by fine and imprisonment, and shall also be liable to the said company in a civil action for damages.

Sec. 10. That no provision contained in this act, shall be so construed as to grant or allow any banking privileges, or any privilege of issuing any species of paper to circulate as money to the aforesaid company.

Sec. 11. That the said company shall have the right, to charge five cents per mile for passengers and no more, and shall have

the right to charge not exceeding fifty cents on the hundred pounds for freight, for every hundred miles that the same may be transported on said Railway; provided however, that the Legislature of the State of Texas, shall have the right to fix and regulate the price that said company shall charge for carry the public mails of the United States.

Approved, February 11, 1850.

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CHAPTER CXLIX.

An act to amend an act entitled "an act to raise a revenue by Taxation.

Sec. 1. Be it enacted by the Legislature of the State of Texas, That the first section of the above recited act be amended so as to read as follows, viz: Sec. 1. That there shall be levied and collected, for the use of, the State, a direct ad valorem tax of fifteen cents upon each hundred dollars' value of all property, real and personal, except such property as may be excepted by law from taxation.

Sec. 2. Be it further enacted, That there shall be assessed and collected of every free male person, between the ages of twenty-one and fifty years, citizens of this State, (idiots and persons non compos mentis excepted,) a poll tax of fifty cents each.

Approved February 11th, 1850.

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CHAPTER CL.

An act to regulate the Courts and the time of holding the same in the fourth Judicial District.

Section 1. Be it enacted by the Legislature of the State of Texas. That from and after the first day of August next, the following counties shall compose the fourth Judicial District, to wit: Nueces, San Patricio, Refugio, Bexar, Medina, Uvalde and Gillespie.

Sec. 2. Be it further enacted, That the courts in the fourth Judicial District, from and after the first day of August next, shall be held as follows, to wit:

In the county of Nueces, on the first Mondays in March and September, and may continue in session two weeks.

In the county of San Patricio, on the second Mondays after the first Mondays in March and September, and may continue in session one week.

In the county of Refugio, on the twelfth\* Mondays after the first Mondays in March and September, and may continue in session one week.

In the county of Bexar, on the fourth Mondays after the first Mondays in March and September, and may continue in session four weeks.

In the county of Medina, on the eighth Mondays after the first Mondays in March and September, and may continue in session one week.

In the county of Uvalde on the ninth Mondays after the first Mondays in March and September, and may continue in session one week.

In the county of Gillespie, on the tenth Mondays after the first Mondays in March and September, and may continue in session one week.

Sec. 3. Be it further enacted, That this act take effect and be in force from and after the first day of August, in the year 1850.

Approved, February 11, 1850.

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\* NOTE.—This was probably intended to be the Third, but it is written in the Law as it is here printed.

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## CHAPTER CLI.

An act supplementary to and amending "an act, to apportion the Senators and Representatives of the Legislature among the several counties of the State, according to the requirements of the Constitution, approved January, 1850."

Section 1. Be it enacted by the Legislature of the State of Texas, That an act to apportion the Senators and Representatives of the Legislature, among the several counties of the State, according to the requirements of the Constitution, approved January 1850, shall be, and is amended as follows:

The county of Harrison shall constitute the eleventh representative district, and shall elect one Representative.

The counties of Harrison and Upshur shall constitute the fifty-sixth representative district, and shall elect one Representative.

The county of Nacogdoches shall constitute the sixth representative district, and shall elect one Representative.

The counties of Nacogdoches and Angelina shall constitute the fifth-seventh representative district, and shall elect one Representative.

The Chief Justice of Harrison county, shall receive the returns, and give the certificate of election to the person receiving the highest number of votes for Representative, in the fifty-sixth representative district; and the Chief Justice of Nacogdoches county, in the fifty-seventh representative district.

The counties of Nueces, Webb, San Patricio, Refugio and Kinney, shall constitute the twenty-fifth Senatorial district.

The counties of Webb, Kinney, Nueces, Refugio and San Patricio, shall constitute the fifty-third representative district, and shall elect two Representatives.

Sec. 2. Be it further enacted, That in all cases, where a new county has been, or shall be created by this Legislature, and such new county is not named as forming a part of any of the Senatorial or Representative District, as established by the act to which this is supplementary, [such] new county shall be attached to and form a part of the Senatorial and Representative District in which the county is, from which such new county or the greater part thereof was taken.

Approved, February 11, 1850.

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## CHAPTER CLII.

An act to define the time of holding the District Courts for the Fifth and Sixth Judicial Districts.

Section 1. Be it enacted by the Legislature of the State of Texas, That the District Courts of the Fifth Judicial District shall be held as follows, to wit:

In Shelby county, on the first Mondays in March and September, and may continue in session three weeks.

In Sabine county, on the third Mondays after the first Mondays in March and September, and may continue in session two weeks.

In San Augustine, on the fifth Mondays after the first Mondays in March and September, and may continue in session five weeks.

In Jasper county, on the tenth Mondays after the first Mondays in March and September, and may continue in session one week.

In Newton county, on the eleventh Mondays after the first Mondays in March and September, and may continue in session one week.

In Angelina county, on the twelfth Mondays after the first Mondays in March and September, and may continue in session one week.

In Nacogdoches county, on the thirteenth Mondays after the first Mondays in March and September, and may continue in session until the business shall be disposed of.

Sec. 2. Be it further enacted, That Cass, Upshur, Wood, Smith, Cherokee, Rusk, Panola and Harrison counties, shall compose the Sixth Judicial District.

Sec. 3. Be it further enacted, That the District Courts of the Sixth Judicial District, shall be held as follows, to wit:

In Cass county, on the third Mondays in March and September, and may continue in session three weeks.

In Upshur county, on the third Mondays after the third Mondays in March and September, and may continue in session one week.

In Wood county, on the fourth Mondays after the third Mondays in March and September, and may continue in session one week.

In Smith county, on the fifth Mondays after the third Mondays in March and September, and may continue in session one week.

In Cherokee county, on the sixth Mondays after the third Mondays in March and September, and may continue in session two weeks.

In Rusk county, on the eighth Mondays after the third Mondays in March and September, and may continue in session three weeks.

In Panola county, on the eleventh Mondays after the third Mondays in March and September, and may continue in session two weeks.

In Harrison county, on the thirteenth Mondays after the third Mondays in March and September, and may continue in session until the business shall be disposed of.

Sec. 4. Be it further enacted, That writs and other process



of every kind, that have been and may hereafter be issued from the District Courts of any of the counties named in this act, shall be returned to the terms of said courts, as established by this act; and all such process and writs shall have the same force and effect, as if they had been originally so returnable.

Sec. 5. Be it further enacted, That so much of the act entitled an act to establish the Judicial Districts of the District Courts, approved February 26th, 1848, and so much of an act, entitled an act to define the times of holding the District Courts, in the Fifth, Sixth and Eighth Judicial Districts, approved March 28, 1848, as conflicts with this act, be, and the same is hereby repealed; and that this act shall take effect and be in force from and after its passage.

Approved, February 11, 1850.

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#### CHAPTER CLIII.

An act to define the times of holding the District Courts in the Eighth and Ninth Judicial Districts.

Section 1. Be it enacted by the Legislature of the State of Texas, That the District Courts in the Eighth Judicial District of this State, shall be held in the several counties comprising the same at the times herein specified, to wit: In the county of Bowie, on the first Mondays in March and September, and may continue one week.

In the county of Titus, on the second Mondays in March and September, and may continue one week.

In the county of Hopkins, on the third Mondays in March and September, and may continue one week.

In the county of Hunt, on the fourth Mondays in March and September, and may continue one week.

In the county of Collin, on the first Mondays after the fourth Mondays in March and September, and continue one week.

In the county of Denton, on the second Mondays after the fourth Mondays in March and September, and continue one week.

In the county of Cooke, on the third Mondays after the fourth Mondays in March and September, and continue one week.

In the county of Grayson, on the fifth Mondays after the

fourth Mondays in March and September, and continue one week.

In the county of Fannin, on the sixth Mondays after the fourth Mondays in March and September, and continue one week.

In the county of Lamar, on the seventh Mondays after the fourth Mondays in March and September, and continue one week.

In the county of Red River, on the eighth Mondays after the fourth Mondays in March and September, and continue two weeks.

Sec. 2. Be it further enacted, That the District Courts in the Ninth Judicial District of this State, shall be held in the several counties comprising the same at the times [herein] specified, to wit: In the county of Houston, on the first Mondays in March and September, and may continue in session two weeks.

In the county of Anderson, on the third Mondays in March and September, and continue two weeks.

In the county of Henderson, on the first Mondays after the fourth Mondays in March and September, and continue one week.

In the county of Van Zandt, on the second Mondays after the fourth Mondays in March and September, and continue one week.

In the county of Kaufman, on the third Mondays after the fourth Mondays in March and September, and continue one week.

In the county of Navarro, on the fourth Mondays after the fourth Mondays in March and September, and continue one week.

In the county of Ellis, on the fifth Mondays after the fourth Mondays in March and September, and continue one week.

In the county of Tarrant, on the sixth Mondays after the fourth Mondays in March and September, and continue one week.

In the county of Dallas, on the seventh Mondays after the fourth Mondays in March and September, and continue two weeks.

Sec. 3. Be it further enacted, That all laws and parts of laws conflicting with the provisions of this act be, and the same are hereby repealed, and that this act be in force and take effect from and after the first day of July next.

Approved, February 11, 1850.

CHAPTER CLIV.

An act for the relief of the persons taken prisoners by the Mexican army at San Antonio.

Section 1. Be it enacted by the Legislature of the State of Texas, That all persons captured by the Mexican army at San Antonio in the year 1842, shall be entitled to receive compensation at the rate of twenty dollars and fifty cents per month, from the time of their capture until the final release of the main body of said prisoners by the Mexican government, upon the following proof being presented by each applicant, viz: The person applying shall produce the affidavit of two of said prisoners, sworn to before any Notary Public, or Justice of the Peace, stating that they were prisoners captured at San Antonio, that they were acquainted with the person making the application, or through whom the application is made, and that he was one of the prisoners captured as aforesaid.

Sec. 2. Be it further enacted, That upon the presentation of said affidavit to the Auditor and Comptroller, by the applicant, who may be the person claiming as a prisoner, or his heirs or legal representatives, or assigns, it shall be the duty of the Auditor and Comptroller to issue to the applicant a certificate for the amount to which, under the provisions of this act, he shall be entitled, which certificates shall be as valid as other audited liabilities of the late Republic of Texas.

Sec. 3. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, Feb. 11, 1850.

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CHAPTER CLV.

An act to incorporate the Brazos, San Bernard and Oyster Creek Canal and Navigation Company.

Sec. 1. Be it enacted by the Legislature of the State of Texas, That D. Hardeman, M. Austin Bryan and Branch T. Archer, and all such other persons as may associate themselves with them, and their successors, are hereby created a body politic and corporate, by the name of the Brazos, San Bernard and Oyster Creek Canal and Navigation Company.

Sec. 2. The capital stock of said corporation shall be one hundred and sixty thousand dollars, to be divided into shares of twenty dollars each, and subscription books for said stock shall be opened under the direction of said D. Hardeman, M. Austin Bryan and Branch T. Archer, or any two of them, as Commissioners for that purpose, at such place or places, and on such day or days, in the county of Brazoria, as they shall appoint, giving twenty days notice of each time and place of meeting, by posting the same at the courthouse of Brazoria county, and also, by publishing the same in some newspaper printed in said county, if there be one at the time; but if there be no newspaper printed in said county at the time, then by publishing the same in some newspaper in Galveston county, and said subscription shall be opened within two years after the passage of this act.

Sec. 3. In case a greater amount than one hundred and sixty thousand dollars shall be subscribed, the said commissioners shall distribute the stock in such manner as a majority of them shall consider most advantageous to the public interest, but in case the capital stock of said corporation shall not be subscribed, then the said commissioners shall be authorized to re-open the said books at such other times and places, and in such manner, and after such notice as a majority of them shall direct. The said commissioners shall, at the time of any subscription, require the payment by the person or persons subscribing, of five per cent. on such share of stock so subscribed, and unless the same shall be paid, the subscription shall be invalid.

Sec. 4. The said corporation are authorized and empowered to employ their capital stock in surveying, constructing, navigating and maintaining a line of canals and water communication: first, from the San Bernard river, in Brazoria county, to the Brazos river in said county. Second, from the Brazos river, in Brazoria county, to Oyster creek, in said county, which said canal shall be at least fifty feet wide at the surface, and three feet in depth at common low tide.

Sec. 5. That said corporation may commence their operations whenever ten thousand dollars shall be subscribed and paid in, and they are hereby authorized to employ such portion of their capital as may be necessary, in purchasing, building or hiring dredging machines, steam and freight boats, for constructing and navigating said canal; and whenever the whole, or any part of said canal shall be completed, they are empowered to demand, collect and receive from every person or persons wishing to navigate the same, such rates of toll as they shall from time to time ordain and establish, the same to be subject to alteration and re-

vision by the Legislature; Provided, that the Legislature shall not reduce said tolls so that they shall amount to less than twelve per cent. per annum on the capital stock invested, and the said corporation shall at all times admit the navigation of said canal, by boats and vessels other than those owned and employed by them, on the payment of tolls for the use of said canal.

Sec. 6. Said corporation and its property and effects shall be governed and managed by five Directors. Said Directors shall be elected by the stockholders within forty days after ten thousand dollars shall have been subscribed, giving twenty days notice of such election, and shall hold their offices until the first Monday in January in the next succeeding year after such election; on the said first Monday in January, and annually thereafter, there shall be an election of five Directors, who shall hold their offices for one year, and until others shall be chosen in their places. The first election shall be held under the superintendence and inspection of D. Hardeman, M. Austin Bryan and Branch T. Archer, or any two of them; and every subsequent election shall be held under the inspection of the stockholders not being Directors, who shall be previously appointed by the Directors.

All elections shall be by ballot, and a plurality of votes shall constitute a choice. In case of an equal number of votes being given for any one or more Directors, the remainder of the Directors shall by ballot determine which shall be entitled to a seat in the Board of Directors. Every stockholder shall be entitled to one vote, personally or by proxy, on every share held by him for thirty days immediately previous to such election. The Directors so chosen shall elect as soon as may be [convenient] at or after the first meeting, and every annual meeting thereafter, one of their number as President. In case of the death, resignation or absence of the President, the Board of Directors shall have the power of appointing a President pro tempore.

Sec. 7. In case it should at any time happen that an election of Directors shall not be made on any day when pursuant to this act it ought to have been made, the said corporation shall not for that cause be dissolved, but such election may be held at any other time directed by the by-laws of said corporation, within sixty days after the day on which it should have been held.

Sec. 8. The Board of Directors shall have power to make all necessary rules, regulations and by-laws for regulating the time and manner of paying in the stock subscribed; for declaring the forfeiture of previous instalments on account of the non-payment

of subsequent ones, after giving thirty days notice of demand of payment; for regulating the manner of voting by proxy; for directing elections to fill vacancies that may occur between the annual elections; for regulating the time and manner of declaring dividends of their profits; for the regulation of the conduct of officers and agents; for the apportionment of as many officers and agents as they may deem requisite, and to determine the amount of their compensation; and generally to do all other acts which they may deem expedient for the purpose of carrying into effect the objects of the corporation and not contrary to the provisions of this act, or any law of this State.

Sec. 9. No transfer of the stock of the corporation shall be valid or effectual unless the same shall be registered in a book or books to be kept by the Directors for that purpose.

Sec. 10. The said corporation may purchase and hold all such real estate, lands and waters as may be necessary for constructing, maintaining and repairing their canals, and may, by their engineers and agents, enter upon any land or water for the purpose of making surveys, a just compensation therefor being first made to the owners thereof; and may, by their engineers or agents, enter upon and take possession of, and use all such real estate, lands and waters as may be necessary for the construction and maintenance of their canals and the accommodations required appertaining thereto, after obtaining the consent of the owner or owners thereof, and may also receive, hold and take all such voluntary grants and donations of real estate, lands and waters as may be made to the said corporation, to aid in the construction, maintenance and accommodation of said canals; and whenever the said corporation shall become possessed with the ownership and title to any real estate, lands or waters that may be necessary for them to retain for the purposes aforesaid, it shall be lawful for them to alien and convey the same by deeds, on such terms as they shall deem expedient.

Sec. 11. The said corporation shall build and keep in good repair suitable and convenient bridges over and across said canals, in all places where the same shall pass or cross any public high way or road, and all other necessary bridges for the accommodation of persons owning land on any parts of said canals; and said corporation may also build or procure and maintain toll houses for the collection of tolls on said canals at such places as they shall deem proper.

Sec. 12. No person shall construct any bridge across said canals or any portion thereof, nor shall they build any wharf or basin, nor shall they make or apply any device whatever for the

purpose of directing or turning away any water from said canals or any portion thereof, without first obtaining permission therefor from said corporation; and if any person shall construct any such bridge, wharf or device as aforesaid, without such permission, he shall forfeit and pay to said corporation a sum not exceeding fifty dollars, and the said corporation may remove or fill up the same at the expense of the person so making and applying the same as aforesaid, and may sue for and recover the same in any courts of competent jurisdiction.

Sec. 13. If any person or persons shall wilfully injure or obstruct the said canal or any portion thereof, or any of the works connected therewith, such person or persons shall be liable to pay double the amount of the damages sustained, to be recovered by said corporation in any court having competent jurisdiction.

Sec. 14. When the said line of canals, or any portion thereof, shall be completed and made use of for purposes of navigation, the Directors of said corporation shall make a full statement of the expense of constructing the same, under the oath or affirmation of the President thereof, and shall cause the same to be filed in the office of the Comptroller of Public Accounts, and copies thereof in the office of the clerk of the county court of Brazoria county; and in like manner shall, on or before the first Monday in February in such year, after the completion of said line of canals, file in each of said offices a statement of tolls received on said canals, and of all moneys expended by said corporation for repairs or otherwise, for the purposes of said canals.

Sec. 15. In case the said corporation shall not complete said line of canals within six years from the passage of this act, then the said corporation shall thenceforth cease and terminate.

Sec. 16. That this charter shall not interfere with the charter granted to the Galveston and Brazos Navigation Company, and nothing in this section shall prevent this company from commencing operations under this charter.

Approved, Feb. 11, 1850.

## CHAPTER CLVI.

An act to incorporate the Buffalo Bayou, Brazos and Colorado Rail-Road Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That Sidney Sherman, Hugh McLeod, John G. Todd, John Angier, Jonathan F. Barrett, E. A. Allen, Wm. M. Rice, W. A. Van Alstyne, J. H. Stevens, B. A. Sheppard and W. H. Hutchins, and their associates and successors be, and they are hereby created and established a body corporate and politic, under the name of the Buffalo Bayou, Brazos and Colorado Rail-way Company, with capacity in said corporate name, to make contracts; to have succession and a common seal; to make by-laws for its government and the regulation of its affairs; to sue and be sued; to plead and be impleaded; to grant and receive; and generally to do and perform all such acts and things as may be necessary or proper for, or incident to the fulfilment of its obligations, or the maintenance of its rights under this act, and consistent with the constitution of this State.

Sec. 2. That the said company be, and is hereby invested with the right of locating, constructing, owning and maintaining a Rail-way, commencing at any suitable point on Buffalo Bayou, between Lynchburg and Houston, in the county of Harris, and thence running by such course, and to such point at or near the Brazos River, between the towns of Richmond and Washington inclusive, as said company shall deem most suitable, with the privilege of making, owning and maintaining such branches of said Rail-way as they may deem expedient.

Sec. 3. That the parties named in this act, or a majority of them, with such persons as they may associate with themselves for this purpose, are hereby appointed commissioners, and invested with the rights of forming and organizing said company, and generally of exercising the powers of Directors, until Directors are chosen, when the powers of the commissioners shall cease.

Sec. 4. That the capital stock of said company shall not exceed five hundred thousand dollars. The amount to be determined by the Commissioners or Directors, and by them divided into shares of such equal par value as they shall think fit, each share entitling the owner thereof to one vote, in person or by proxy, at all meetings of the company; and the shares shall be deemed personal estate, and shall be transferrable by any conveyance in writing, recorded either by the treasurer in books kept by him at his office for that purpose, or by an officer duly



authorized by the Directors, in books kept by him at such other place as the Directors may appoint: Such transfers as are recorded in such other place being written [within?] thirty days, communicated to the treasurer, and by him entered into his books.

Sec. 5. That the immediate government and direction of the affairs of the company shall be vested in a Board of not less than five Directors. Said Directors shall elect one of their own number to be President of the company. The first Board of Directors shall be chosen by said commissioners and such persons as they may associate with themselves for the purpose, and at such time and place as they shall appoint; and they shall hold their offices until others are duly elected in their places by the members of the company. No person shall be eligible to the office of Director unless a subscriber or owner of at least five shares of the capital stock. The Directors shall have power to fill any vacancy in their own Board, arising from non-election, death, resignation or other cause; to appoint a clerk, treasurer and such other officers and agents as they may consider necessary, and prescribe and require bonds for the faithful performance of their duties. They may, if the same is not fixed by the the by-laws, determine the manner of calling and conducting all meetings, the number of members that shall constitute a quorum; and do or cause to be done all other lawful matters and things which they may deem necessary or proper in conducting the business of the company; they shall keep, or cause to be kept, accurate records of all meetings of the Directors and company, and accurate books of accounts of the receipts and expenditures of the company, and all other books usual and proper to be kept by such a company. A majority of the Board of Directors shall have the power of a full Board, and all conveyances and contracts in writing executed by the President and countersigned by the Directors, under the seal of the company, and in pursuance of a vote of the Directors, shall be valid and binding.

Sec. 6. That the shares in said capital stock may be disposed of by the Directors in such manner and on such terms as they shall think best for the interest of the company; and any agreement in writing, whereby any person shall become a subscriber to the capital stock, may be enforced against him according to its terms. And if any subscriber shall fail to pay any amount due upon shares subscribed for by him according to the terms of his subscription, the Directors may sell at auction and transfer to the purchaser the shares of such delinquent, and if the proceeds of

sale shall not be sufficient to pay the amount so due, with interest and charges, such delinquent shall be held liable to the company for the deficiency, and if the proceeds shall exceed the amount so due, with interest and charges, he shall be entitled to the surplus.

Sec. 7. That it shall be lawful for the company to enter upon and purchase, or otherwise take and hold any land necessary for the purpose of locating, constructing and maintaining said Railway, with all necessary depots and other buildings, and if they shall not be able to obtain such land by agreement with the owner thereof, they shall pay therefor such compensation as shall be determined in the manner provided in the following section. The land so taken for the road bed shall not exceed fifty yards in width, and for depots and buildings, only such further width as shall be necessary.

Sec. 8. That any person, when land has been taken as aforesaid, may apply to the District Court of the county in which such land is situated for the appointment of, and said court shall thereupon appoint three disinterested freeholders of the county, who shall appoint a time and place to hear the applicant and the company, to whom shall be given reasonable notice, by the court, of said time and place; and said freeholders shall, after being sworn, and after hearing the parties, determine the amount of compensation as aforesaid, and make return of their award to said Court at its next term; and said award may be confirmed, or for any sufficient reason rejected by said court, in the same manner as awards of arbitrators under a rule of court; and if confirmed by the court, judgment shall issue thereon as in other cases. In determining the amount of compensation to be paid as aforesaid, said freeholders shall be governed by the actual value of the land at the time it was taken—taking into consideration the benefit or injury done to other neighboring land of the owner by the establishment of said Railway. If in any case the amount found by the arbitrators shall not exceed the amount proved to have been offered by said company to the owner prior to his application to the court, the owner shall pay the costs of the proceedings, otherwise the company shall pay the same.

Sec. 9. That it shall be the duty of said company, whenever any State or county road now established shall be crossed by said Railway, to make and keep in repair good and sufficient causeways at such crossings, and in all cases where any person shall own land on both sides of the Railway, and there shall be no other convenient access from one part to the other, such owner

shall have the right of passage free of costs, at all reasonable times across said Rail-way.

Sec. 10. That the City of Houston is hereby authorised to construct, or cause to be constructed, a branch Railway from said City to connect with the Railway hereby established; that they shall have the same rights to enter upon and condemn lands as the company have, and generally to have the same rights to construct their branch as are granted by the charter to the Railway company; and the Mayor and Aldermen of the said city of Houston are hereby made a party to this charter. And when such branch Railway shall be so constructed, the cars of such branch may be run over said main Railway, or any part thereof; Provided, the cars of said branch Railway are run at such hours as not materially to interfere with the running of the cars of said main Railway; and provided further, that the proprietors of said branch pay to the company owning said main Railway such compensation for the use of said main Railway as shall be reasonable, the amount of said compensation, unless agreed upon by the parties, to be determined by three disinterested men, one of whom shall be chosen by the President, or chief officer of each of said Railway companies, and the other by those two; the decision of said three men to be final, and binding for the period of two years from the rendering of the same; and provided further, that the proprietors of said branch Railway shall not be at liberty to use upon said main Railway, or any part thereof, their own engines or other motive powers, unless the company owning said main Railway shall unreasonably refuse or neglect to draw the cars of said branch over said main Railway with the engines or other motive power of said company.

Sec. 11. That as soon as the Railway company hereby established, shall commence running any portion of their road, they shall file in the State Department a full and accurate report of the cost and mode of construction of their road, and make such further reports of their doings and condition as the Legislature shall from time to time require.

Sec. 12. That if said company shall cross any navigable stream, they shall do it so as not to interfere with its navigation.

Sec. 13. That said company may acquire by purchase or gift, any real estate the Directors shall think desirable, in order to promote or hasten the construction of said Railway. They may borrow money on their bonds or notes at such rates as shall be deemed expedient; provided, however, that nothing in this act shall be construed to confer banking privileges of any kind.

Sec. 14. That said commissioners shall have the right to de-

mand and receive such rates and prices for the transportation of passengers and freight as they may think proper, not exceeding five cents per mile for passengers, and not exceeding the rate of fifty cents per hundred pounds for every hundred miles the same may be carried; Provided, however, that the State shall have the right to regulate the price to be charged for carrying the mails.

Sec. 15. That if any person shall wilfully injure or obstruct said Railway or its property, such person shall be punished by fine and imprisonment at the discretion of the court, and shall also be liable to action by said company for damages.

Sec. 16. That the sale of town lots in the town of Harrisburg hereafter made by said company, or their agent, shall not be considered binding upon the purchaser, unless said Railroad shall be in complete and practicable operation for the distance of twenty miles, within two years from the passage of this charter; the sale of the lots to be annulled by a reconveyance of the lots to the company.

Sec. 17. That if said Railway is not commenced within one year from the passage of this act, and if at least twenty miles are not in running order within two years, then this charter shall be null and void.

Approved, February 11, 1850.

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## CHAPTER CLVII.

An act to provide for the liquidation of the public debt of the late Republic of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That any legal holder of any of the liabilities of the late Republic of Texas, that have been audited and reported to the Legislature by the Auditor and Comptroller of the State of Texas, under the provisions of an act to provide for ascertaining the public debt of the late Republic of Texas, approved twentieth March in the year eighteen hundred and forty-eight, may, by surrendering the same to the Commissioner of the General Land Office, receive in lieu therefor land certificates, under the seal of the Land Office for the same, at the rate of fifty cents per acre, to the satisfaction of his, her or their claim, and the said Commissioner of the General Land Office is hereby authorized

and required to issue land certificates for the same, under the regulations and restrictions hereafter provided in this act.

Sec. 2. That any person or persons surrendering their claims as provided for in the first section of this act, shall be entitled to and receive a certificate for the same; provided his or her claim shall amount to three hundred and twenty acres, and that no certificate shall issue for a less number of acres than six hundred and forty, where the party's claim amounts to that much; and no certificate shall issue for a less number of acres than twelve hundred and eighty, where the party's claim shall amount to that much, but certificates may issue for any number of acres between the numbers here given, to the satisfaction of the claims exceeding the minimum and falling under the number of acres here given.

Sec. 3. That the Commissioner of the General Land Office shall keep a correct record of all land certificates issued by him under the provisions of this act, with the date of said issue number of the certificate, the amount in acres, and the person to whom issued; and he shall report the same to the Governor every six months, and he shall also deposite in the office of the Secretary of State all claims for which he has issued land certificates every six months, take his receipt for the same; and the claims so filed with the Secretary of State shall within five days thereafter be publicly burned in the presence of any three respectable persons, to be selected by the Secretary of State, who shall certify on oath that the said claims, specifying each, were then and there wholly destroyed by fire in their presence.

Sec. 4. That all land certificates issued under the provisions of this act, shall be located, surveyed and patented according to the laws now in force regulating the same; Provided that said certificates may be transferred by endorsement and delivery, at any time before the same have been located and surveyed.

Sec. 5. That the Governor shall cause this act to be published in some newspaper printed at the seat of government of this State, and also in some newspaper published at the city of New Orleans, Louisiana, for three successive months immediately after its passage.

Sec. 6. That all liabilities of the late Republic of Texas, whether the same have or have not been presented to the Auditor and Comptroller, under the provisions of the act to provide for ascertaining the debt of the late Republic of Texas, approved March, A. D. 1848, shall cease to draw interest from and after the first day of July, in the year one thousand eight hundred and fifty.

Sec. 7. That all laws contrary to the provisions of this act be, and the same are hereby repealed; and that this act shall take effect and be in force from and after the first day of May in the year eighteen hundred and fifty.

Approved, February 11, 1850.

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#### CHAPTER CLVIII.

Joint Resolution requesting the Hon. John C. Watrous to hold sessions of the U. S. District Court at Jefferson, in Cass county, and at Corpus Christi, in Nueces county.

Be it Resolved by the Legislature of the State of Texas, That the Hon. John C. Watrous is respectfully requested to hold regular sessions of the United States District Court at the towns of Corpus Christi and Jefferson, and to divide the State into three districts corresponding thereto.

Be it further resolved, That the Governor is hereby requested to transmit to said Judge a copy of this joint resolution.

Approved, February 11, 1850.

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#### CHAPTER CLIX.

An act to authorize the withdrawal from the General Land Office, of Deeds issued on paper of the second seal.

Section 1. Be it enacted by the Legislature of the State of Texas, That the owners of deeds issued on paper of the second seal, that have been filed in the General Land Office, shall be, and they are hereby authorized to withdraw said deeds from said office, on leaving a receipt for the same, naming the original grantee of the land therein described, and the quantity of land granted by said deed, the date of said deed, and where the land therein described is situated, and that this act take effect immediately.

Approved, February 11, 1850.

CHAPTER CLX.

An act to create the County of Trinity.

Section 1. Be it enacted by the Legislature of the State of Texas, That all that part of Houston county included within the following bounds, to wit: Beginning on the east bank of Trinity River, at the lower corner of Henry Golmon's survey of nine hundred and eighty acres; thence north  $51\frac{1}{2}^{\circ}$  east, to the Neches River; thence down said River with its meanders to the present southeast corner of Houston county; thence westwardly with the south boundary line of said county to the Trinity River; thence up said River with its meanders to the place of beginning, shall constitute the county of Trinity.

Sec. 2. That the citizens of said county of Trinity shall be entitled to all the privileges and immunities enjoyed by citizens of other counties in this State, except separate representation until otherwise provided by law.

Sec. 3. That Jesse James, Benjamin B. Ellis, Solomon Adams, James Marsh, Henry Ward, John Gallion and M. Duke Hornsby be, and they are hereby appointed Commissioners to ascertain the centre of said county, and select the two most suitable places within five miles thereof, having due regard to the purchase, and to the proposed donations of land or other property, for a site, not to include more than six hundred and forty acres, for the seat of justice of said county: and said Commissioners, after giving ten days notice of the time and place thereof, shall hold an election between said two places so selected, and the one receiving the greatest number of votes shall be the seat of Justice for said county, and shall be called Sumpter.

Sec. 4. That said Commissioners shall lay off the town of Sumpter into lots, and after fifteen days notice of the time and place of sale, sell said lots at auction, on a credit of six and twelve months, and shall apply the proceeds of such sale, and all donations, or as much thereof as may be necessary, to the erection of all necessary public buildings for the use of the county, and the residue pay over to the county Treasurer, as soon as one shall be elected.

Sec. 5. That the surveyor of Houston county shall run and mark the line dividing said county from the county of Houston, and shall therefor be authorized to demand and receive from their respective county Treasurers one half of the amount allowed by law for each mile so run and marked by him.

Sec. 6. That a majority of said Commissioners concurring,

shall be authorized to transact any or all of the business hereby confided to the Commissioners, who shall severally receive from the county Treasurer the sum of one dollar for each and every day they may be necessarily engaged in attending to said business, and that the said Commissioners are hereby required to commence the duties required of them by this act, as soon as practicable.

Sec. 7. Be it further enacted, That the county of Trinity be, and is hereby required to pay its proportionate part of the present county debt of Houston county, to be ascertained by the County Courts of each county in joint session in Crockett, at such time as may be agreed on by said Courts, and that the District Courts, the County and Probate Courts of said Trinity county shall be holden at the house of Solomon Adams in said county, until the seat of justice for said county may be located, and preparation be there made for holding said Courts.

Sec. 8. Be it further enacted, That should the county seat be located on public land, the Commissioners are hereby authorized to condemn not exceeding six hundred and forty acres of land, for the use of said county, by paying therefor fifty cents per acre, into the State Treasury, and that this act take effect from and after its passage.

Approved, February 11, 1850.

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## CHAPTER CLXI.

An act concerning Passengers coming to the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That within twenty-four hours after the landing of any passengers from any ship or vessel, arriving at any of the Ports of Texas, at which there is an incorporated town, from any of the United States, other than this State, or from any country out of the United States, the master or commander of the ship or vessel, from which such passenger or passengers shall have been landed, shall make a report in writing, on oath or affirmation, to the Mayor of such incorporated town, or in case of his absence, or the inability to serve, to the persons discharging the duties of his office; which report shall state the name, place of birth, last legal residence, age and occupation, of every person or passenger, who shall have landed, or been permitted to land, from such ship or vessel on her



last voyage to said port, not being a citizen of the United States and who shall have within the last preceeding twelve months, arrived from any country out of the United States, at any port or place in the United States, and who shall not have paid the commutation money, or been bonded according to the provisions of this act; the said report shall contain a like statement of all such persons or passengers, as shall have been put or allowed to go on any ship, vessel or boat, with the intention of proceeding to and landing at any place within the limits of the State of Texas. The said report, shall further specify, whether any such passengers are lunatic, idiot, deaf, dumb, blind or infirm, and if so, whether they are accompanied by relatives likely to be able or willing to support them; and shall further specify particularly the names, last place of residence and ages of all passengers, who may have died during the said last voyage; also, the names and residence of the owner or owners, of such vessel. In case any such master or commander of such vessel, shall omit or neglect to report as aforesaid, any such person or passenger with the particulars aforesaid, or shall make any false report or statement in respect to any such person or passenger, or in respect to the owner or owners of such vessel, or in respect to all or any of the particulars hereinbefore specified, such master or commander shall forfeit the sum of fifty dollars for every such passenger, in regard to whom such omission or neglect shall have occurred, or any such false report or statement shall be made, for which the owner or owners, consignee or consignees, of every such ship or vessel, shall also be liable jointly and severally, and which may be sued for and recovered, before any court of competent jurisdiction.

Sec. 2. It shall be the duty of said Mayor or other person, discharging the duties of his office, by an endorsement to be made upon the said report, to require the owner or consignee of the ship or vessel, from which such persons were landed, to give a several bond, payable to the State of Texas, in a penalty of three hundred dollars, for each and every person or passenger included in such report; such bond being secured as hereinafter provided and conditioned to indemnify, and save harmless, each and every city, town and county in this State, from any cost for the relief or support of the person named within the bond, within five years from the date thereof. Each and every bond shall be secured by two or more sufficient securities, being residents of the county in which it is executed, each of whom, shall prove by oath or otherwise, that he is the owner of real estate, situated in such county of the value of three hundred dollars, over and

above all, which is by law exempt from execution, and from any claim or lien thereon or against him; including therein any contingent claim, which may accrue from or upon any former bond given under the provisions of this act; or such bond may, at the option of the party, be secured by mortgage of real estate, or by deposit of the amount of the penalty in the treasury of such incorporated city or town. It shall be lawful for any owner or consignee, at any time within three days after the landing of such persons or passengers, to commute for the bond or bonds so required, by paying to the Collector or other proper receiving officer, of such incorporated city or town, the sum of one dollar for every passenger reported by him, as by law required, the receipt of which sum shall be deemed a full and sufficient discharge, from the requirements of giving bonds as above provided; the said collector or other officer is required to pay the said money with an account thereof, into the treasury of the corporation of the city or town, for the support and benefit of the Hospital thereof.

Sec. 3. If any person, for whom a bond shall have been given, as aforesaid, shall within the time specified in such bond, become chargeable upon any city, town or county of this State, or any of the citizens thereof, other than the relatives of such person, the Mayor, Aldermen, and inhabitants of such incorporated city or town, may bring an action upon such bond, in the name of the State of Texas; and shall be entitled to recover on such bond, from time to time, so much money, not in the whole exceeding the penalty of such bond, exclusive of costs, as shall be sufficient, to defray the expenses incurred by any such city, town or county, for the maintenance and support of the person for whom such bond was given as aforesaid; and shall be authorized to collect and apply such money, from any of the real or other security mortgaged, pledged or deposited therefor, in conformity with this act.

Sec. 4. If any owner or consignee, as aforesaid, shall refuse or neglect to give any such bond or bonds and security therefor, as required in this act, within three days after the landing of such persons or passengers, or shall not, within that time have paid the moneys authorized to be received, in cases where such bonds are authorized to be commuted for every such owner or consignee of such ship or vessel, severally and respectively, shall be subject to a penalty of five hundred dollars, for each and every person or passenger, on whose account such bond may have been required or for whom such commutation money might

have been paid under this act; such penalty to be sued for and recovered in any court of competent jurisdiction.

Sec. 5. The penalties and forfeitures prescribed in and by this act, may be sued for in the name of the State of Texas, and recovered with costs of suit, in any court having cognizance thereof; and when recovered shall be applied to the support of the Hospital or Hospitals, or other means provided for the maintenance of destitute, sick, infirm, lunatic, idiot, deaf, dumb or blind persons, or others who may properly become a public charge to the city or town, at which any such penalties or forfeitures, may have accrued.

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The foregoing act was presented to the Governor on the 7th February, 1850, and filed in the Department of State, on the 12th, without his approval.

JAMES WEBB, Secretary of State.

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## CHAPTER CLXII.

An Act to provide for the election of a Judge and District Attorney, for the 12th Judicial District.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Governor of this State, be, and he is hereby required to issue his proclamation, commanding that an election be held on the first Monday in August next, in the Twelfth Judicial District, for a District Judge, and a District Attorney for said district, in the manner provided in the Constitution of this State.

Sec. 2. That the returns of the election herein provided for, shall be made to the Chief Justice of Starr county, and by him returned to the office of the Secretary of State, and the persons receiving the greatest number of legal votes, shall be commissioned by the Governor.

Approved, February 11, 1850.

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Note.—An act similar to the foregoing and providing for the same object, but approved February 9, 1850, will be found at page 158. As the two acts were presented on different days to the Governor, and approved by him, and filed in the State Department as *Laws*, the Secretary did not feel authorized to omit either in this publication.

## CHAPTER CLXIII.

An Act to authorize John G. Grumbles and Lyman Tarbox, to establish a Ferry on the Colorado River.

Section 1. Be it enacted by the Legislature of the State of Texas, That John G. Grumbles and Lyman Tarbox, be, and they are hereby authorized to establish a Ferry on the Colorado river, at or near the mouth of Shoal Creek, in Travis county, and free for the citizens of said county.

Sec. 2. Be it further enacted, That they shall keep said ferry for the term of two years, subject to the provisions of the law regulating Ferries.

Sec. 3. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, February 11, 1850.

## CHAPTER CLXIV.

An act to incorporate the Guadalupe Bridge Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That Herman Seele, C. Seabaugh, Carl Rossy, Gustar Schleerher, H. Spiess and C. W. Thomae, all of the county of Comal, and their associates and successors, be, and they are hereby constituted and declared to be, a body politic and corporate, under the name and style of the Guadalupe Bridge Company.

Sec. 2. Be it further enacted, That the said persons, their associates and successors, under the name and style aforesaid, may sue and be sued, plead and be impleaded, defend and be defended, in all courts whatever in this State; and may have a common seal, and may alter the same at pleasure.

Sec. 3. Be it further enacted, That the said persons, their associates and successors, under the name and style aforesaid, shall be authorized to construct a Bridge over the Guadalupe River at such a place, at or near the city of New Braunfels, as may be deemed by them most eligible; and to purchase and hold property, real, personal or mixed, as far as necessary for the construction and maintenance of said Bridge; and to do all other acts, and perform all other works, that may be necessary, not contrary to the Constitution and laws of this State.

Sec. 4. Be it further enacted, That said corporation may enact such by-laws and rules for the management of their affairs, as may be consistent with the constitution and laws of the State, and they shall have power to elect a director, by whom the business of the company may be conducted, and whose name shall be made known to the public.

Sec. 5. Be it further enacted, That said Bridge must be completed within five years from and after the passage of this act, otherwise this charter shall be null and void.

Sec. 6. Be it further enacted, That the said corporation shall be authorized to charge tolls, provided the rates shall never exceed, for a road wagon, loaded, fifty cents—unloaded twenty-five cents; for a two horse wagon loaded, forty cents, unloaded twenty cents; for an ox cart with two wheels, loaded, thirty cents, unloaded, fifteen cents; for a one horse cart or wagon, loaded thirty cents, unloaded fifteen cents; for a two horse pleasure carriage fifty cents; for a horse and rider, ten cents; for loose horses or cattle, five cents per head, for sheep or hogs, two cents per head; for a foot passenger five cents, and for all other things not herein enumerated, at proportional rates to those herein specified.

Sec. 7. Be it further enacted, That the said company, be, and they are hereby required and bound to keep said Bridge in good repair, and to keep in constant attendance at the toll gate of the same, a sufficient number of persons to admit passengers and property to cross at any time, by day or by night.

Sec. 8. Be it further enacted, That the privileges granted in this charter to said company, shall cease and determine after the expiration of twenty-five years, from and after the date of the passage of this act.

Sec. 9. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, February 11, 1850.

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## CHAPTER CLXV.

### Joint Resolution.

Resolved by the Legislature of the State of Texas, That all that territory which lies east of the Rio Grande and a line running north from the source of the Rio Grande to the forty-second degree of north latitude, and south of the forty-second degree of

north latitude, and west and south of the line designated in the treaty between the United States and the late Republic of Texas, of right belongs to the State of Texas, is included within her rightful civil and political jurisdiction, and the State of Texas will maintain the integrity of her territory.

Approved, February 11, 1850.

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#### CHAPTER CLXVI.

An act [to amend an act] to establish the Galveston and Red River Railway Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That the eighth section of the act, to which this act is amendatory, providing that the company established thereby, shall commence operations within two years from the first day of June thereafter, and shall have completed at least one hundred miles of said Railway, within five years thereafter, be so amended as to extend the time within which said company, may commence their operations, to a period of two years, from the first day of June next, and the period within which said company, shall complete one hundred miles of said road, shall be extended to five years from and after the first day of June, one thousand eight hundred and fifty.

Approved, February 11, 1850.

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#### CHAPTER CLXVII.

An act to authorize the Auditor and Comptroller of public accounts to audit the claims of the officers and soldiers called out in 1841, against the Indians by Brigadier Generals Tarrant and Smith.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Auditor and Comptroller of Public Accounts, be, and they are hereby authorized and required to audit the claims of all the officers and soldiers who were mustered into

the service of the Republic of Texas, in the year eighteen hundred and forty-one, by Brigadier Generals Tarrant and Smith, and served in a campaign against the Indians on the Upper Trinity river, at the same rate of pay that was allowed by law for similar services, and under the same rules and regulations.

Sec. 2. Be it further enacted, That certificates issued under the provisions of this act, shall be placed on the same footing with other similar claims against the late Republic of Texas; and that this act take effect and be in force from and after its passage.

Approved, February 11, 1850.

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## CHAPTER CLXVIII.

An act to provide for the Assessment and Collection of Taxes.

Section 1. Be it enacted by the Legislature of the State of Texas, That there shall be elected by the qualified voters of every county within the State of Texas, on the first Monday of August, in the year eighteen hundred and fifty, and every two years thereafter, until otherwise provided by law, an Assessor and Collector of Taxes, who shall hold his office for and during the term of two years, and until his successor shall have been qualified; and should the office of Assessor and Collector, from any cause, become vacant before the expiration of said term, it shall be the duty of the county court of the county in which such vacancy shall occur, to appoint an Assessor and Collector of Taxes, who shall be qualified in the same manner, and subject to a like bond as the Assessor and Collector elected; and the Assessor and Collector so appointed, shall hold his office for and during the unexpired term of his predecessor, and until his successor shall have been qualified.

Sec. 2. That every Assessor and Collector of Taxes shall, within twenty days after he shall have received notice of his election or appointment, and before entering upon the duties of his office, give a bond to the "State of Texas," in a sum which the county court shall consider double the probable amount of the State tax to be assessed in the county for two years, with at least three good and sufficient securities, to be approved by the county court of his county, and shall take and subscribe the oath prescribed by the Constitution, which, together with said bond,

shall be recorded in the office of the clerk of the county court of said county, and be forwarded by the chief justice of the county to the Comptroller, to be deposited in his office: said bond shall be deemed to extend to the faithful performance of the duties of his office, as Assessor and Collector, for and during the full term for which he was elected or appointed, and shall not become void upon the first recovery, but suit may be maintained thereon, until the whole amount thereof be recovered. Such Assessor and Collector may be required to furnish a new bond and additional or other securities whenever in the opinion of the county court it may be advisable. Should any Assessor and Collector fail to give a new bond and additional securities when required, he shall be suspended and dismissed from office by the county court of his county.

Sec. 3. That the Assessors and Collectors of Taxes shall give a like bond, with like conditions, to the Chief Justices of their respective counties, and their successors in office, in a sum not less than double the probable amount of the county tax, to be assessed in the county for two years, which bond shall be recorded and deposited in the county clerk's office of the county. A new bond and additional security may be required, and the Assessor and Collector may be removed from office in the manner prescribed in the second section of this act.

Sec. 4. That the Assessors and Collectors of the several counties of this State shall severally prepare an assessment roll for their respective counties, in which they shall set down in separate columns, in alphabetical order, the names of the taxable inhabitants thereof, the amount and description of the property taxed, real and personal, the value thereof, and the amount of taxes due thereon; for which purpose, they shall, between the first days of January and May, in each and every year, call upon each person living in their county, for a list of his or her taxable property, and of all property subject to taxation, held by such persons as trustee, guardian, executor, administrator, agent or attorney, within the county or State; provided, that when the Assessor and Collector shall call at the usual place of abode of the party liable to taxation, in the absence of such person, a written or printed notice to render such list to the Assessor, shall serve in lieu of personal notice.

Sec. 5. That whenever any person is assessed as trustee, guardian, executor, administrator, agent or attorney, it shall be done by the addition to his name of his representative character; and such assessment shall be carried out in a separate line from his individual assessment.



Sec. 6. That if any person, when called upon by the Assessor and Collector of Taxes of the county in which such person resides, shall fail or refuse to render a list of his or her property, real or personal, or of that held as administrator, executor, guardian, agent or attorney, which is liable to taxation, such person or persons shall be liable to a fine of not less than ten, or more than five hundred dollars, for the use of the State or county, as the case may be, to be recovered before any court of competent jurisdiction; and it shall be the duty of the Assessor and Collector in every county, to report all such cases to the proper courts, and to attend them as a witness, to prove such failure or refusal.

Sec. 7. That the list required under the fourth section of this act, shall contain a description of all the taxable property in his or her own right, or held as guardian, executor, administrator, agent, or attorney, on the first day of January for the current year, verified by the oath of the party returning the same, made and subscribed before the Assessor and Collector of Taxes, or any Justice of the Peace of the county wherein such parties reside, upon which property so returned, the Assessor and Collector and the party rendering the same shall proceed to assess the value; in case they can not agree as to the amount thereof, each shall have the right to select a respectable freeholder to determine the same; and in case of disagreement between the parties so selected, a third person shall be chosen by them, and a decision of a majority shall be final: provided, that the list of taxable property thus required to be furnished, shall not be construed so as to include the products of the soil of this State while in the hands of the producer.

Sec. 8. That each person owning or claiming property situated in any other county than that in which he or she resides, may render the same for assessment to the Assessor and Collector of the county where he or she resides, in the same manner as required by the seventh section of this act, together with a full and complete description thereof, the county wherein the same is situated if known, otherwise the former land district, the name of the original grantee, the class to which the claim belongs, the stream upon which it lies; and when portions only of a grant are rendered, or, if personal property, such description as may make its identification easy. And in any case, when in consequence of a vague or imperfect description of property so rendered, the same cannot be identified, and is sold by the Assessor and Collector of the county, the person making such vague or imperfect description shall be required to redeem as in other cases where sales are made of the property of delinquents.

Sec. 9. That it shall be the duty of each Assessor and Collector of this State, to make out a list of all personal property in his county, which has not been given in for assessment according to the provisions of this act, and assess the same in the name of the owner, if he be known, and if not, then it shall be assessed by description of the property, owner unknown; and the value of all such property shall be determined by the Assessor and Collector, who shall assess the same at its cash valuation, and no more; and the same may be sold as in other cases if the tax be not paid in the time prescribed by law.

Sec. 10. That the assessor and collector of taxes shall, in each and every year, make out, in alphabetical order, three full and complete copies of his assessment-roll, setting forth, in separate columns, the different descriptions of taxable property, real and personal, rendered for taxation, owned or held by any person, firm, or corporate body in his county, and the value thereof, the amount of taxes due thereon, and, also, a list of unrendered personal property made as required by the ninth section of this act; one copy of which he shall retain for his own use, one he shall deposite in the office of the Clerk of the county court of his county, and one he shall cause to be deposited in the office of the Comptroller of Public Accounts on or before the first day of July in each and every year.

Sec. 11. That if any Assessor or Collector of Taxes shall fail or refuse to make out and return his assessment-roll as required by the provisions of this act, he shall forfeit for the use of the State or county, as the case may be, the sum of fifty dollars, in addition to his liabilities under his bond, to be deducted by the Comptroller out of his commissions; or if such Assessor shall make out and return an unfair or false assessment-roll he shall be liable to presentment and indictment by the Grand Jury of his county for malfeasance in office, and, on conviction, shall be removed from office and fined in a sum not exceeding five hundred dollars, nor less than one hundred.

Sec. 12. That whenever any Assessor and Collector shall ascertain that any taxable inhabitants, lands, town lots, or personal property have not been assessed for any passed year, he shall assess the same in his next assessment-roll, at the same rate under which such inhabitants and property should have been assessed for such year; and such assessment shall be entered at the end of the assessment-roll, stating the years for which such inhabitants or property should have been assessed, and the taxes thereon shall be collected in the manner as other assessments.

Sec. 13 That every Assessor and Collector of taxes, in the

execution of the duties of his office, shall use the forms and pursue the instructions of the Comptroller of Public Accounts, and after his assessment-roll has been completed, upon notification being made to the Chief Justice by the Assessor and Collector, it shall be the duty of said Chief Justice of the county to hold a special term of the county court to examine the same; and, after comparing it with the sworn inventories of property rendered, which shall be filed in the office of the Clerk of the county court, and finding the same correct and true according to the inventories sworn to as required by law, said court shall certify that the assessment made, and the roll deposited in the County Clerk's office of the county, is a fair, correct, and true assessment thereof. Upon the production of which certificate to the Comptroller, together with the roll, such Assessor and Collector shall receive a compensation on the amount of the assessment for the use of the State, of eight per cent. upon all sums of one hundred dollars and less, five per cent. upon all sums less than two thousand dollars and more than one thousand dollars, four per cent. on all sums less than five thousand dollars and more than two thousand dollars, three per cent. on all sums less than ten thousand dollars and more than five thousand dollars, and for all sums more than ten thousand dollars one per cent. on the amount thereof, and shall receive upon the assessment amount made for the county one-half of the like per centum.

Sec. 14. That it shall be the duty of the Commissioner of the General Land Office to have made out and prepared, from the records and surveys on file in his office a full and perfect abstract of all the lands, titles or surveys in the State, designating the grantee, the amount of the grant, the class to which each belongs, whether head-right, bounty, donation or special grant, and the county in which situated; which abstract shall be made up to the first of January, 1851, and deposited in the office of the Comptroller, and on the first day of January in each and every year thereafter, all patents issued and surveys returned during the preceding year shall be furnished by the Commissioner of the General Land Office, and added to said abstract; and for the compilation of which abstract the Commissioner aforesaid shall be authorized to employ such assistance as may be necessary to carry into effect the object of this section; and the Assessors and Collectors shall, in like manner, furnish the Comptroller with maps of the several cities and towns in their respective counties.

Sec. 15. That every Assessor and Collector of taxes, after he has made out and returned the assessment-roll of his county, as required by the provisions of this act, between the first of Octo-

ber and the first of March, shall proceed to collect the taxes therein mentioned; and for that purpose, shall call at least once upon every person taxed, or on the agent or attorney of such person, at the usual place of his or her residence, and demand the payment of the taxes charged upon his or her person or property, if the party is to be found, and if not, then a written demand, specifying the amount of taxes due, left at the residence with some member of the family, over fourteen years of age, shall be sufficient demand.

Sec. 16. That if any person shall fail or refuse to pay the taxes imposed upon him and his property by law, until the first day of March next succeeding the return of the assessment roll of his county to the Comptroller, the Assessor and Collector shall, by virtue of his tax list, levy upon so much property liable to taxation, belonging to such person, if to be found in his county, as may be sufficient to pay his or her taxes: Provided, however, that if such person, his agent or attorney, shall point out to the Assessor and Collector sufficient property belonging to the party assessed, in said county, to pay said taxes, then the Assessor and Collector shall levy upon the property so pointed out; and in case the property levied on is about to be removed out of the county, the Assessor and Collector shall proceed to take into his possession so much thereof as will pay the taxes assessed and the cost of collection.

Sec. 17. That every Assessor and Collector of taxes shall give notice of the time and place of the sale of property so levied on, at least thirty days previous to the day of sale, by advertisement in writing, to be posted up, one on the court-house door of his county, and in two other public places in his county; and such sale shall take place at the court-house door of the county in which the assessment is made, by public auction; and if the property so levied upon prove to be insufficient to satisfy the amount of taxes due and costs of sale, the Assessor and Collector shall levy upon and sell so much other taxable property, belonging to such person, as will be sufficient to satisfy such tax, in the manner prescribed in the preceding part of this section. Provided, that when land is offered for sale, and any person or persons shall offer at the sale to pay the dues thereon aforesaid, for less than the whole quantity of the tract of land advertised, then it shall be stricken off to the lowest bidder; and the part or parcel sold, (if less than the entire tract advertised,) shall be laid off in a square, beginning at the original beginning corner of said tract.

Sec. 18. That the Assessor and Collector shall, when any

property has been sold for the payment of taxes, make and execute a deed for said property to the person or persons purchasing the same; which, when recorded, according to law, shall be prima facie evidence that all the requisitions of the law have been complied with in making such sale. Provided, however, that the owner of such property shall have the right to redeem the same, at any time within two years of the day and date of sale thereof, upon paying to the purchaser or Assessor and Collector selling the same, or his successor in office, double the amount of taxes for which the same was sold, together with the costs of sale.

Sec. 19. That it shall be the duty of the Comptroller, upon the receipt of the assessment-rolls of the several counties of the State, to proceed to compare said rolls with the abstract from the General Land Office, filed with him, as required by the provisions of the fourteenth section of this act, and with the maps as furnished by the Assessors, and subtract therefrom such tracts, or portions of tracts of land and town lots as may have been rendered for assessment to the Assessors and Collectors, and reported by them; and if there shall remain any tract or portion of a tract of land, which has not been rendered and assessed, it shall be the duty of the Comptroller to assess the same at the average rate of the land rendered in the county where it is situated; and if town lots, at the average rate of lots rendered for assessment in the town or city in which the same may be situated, and forward it to the Assessor and Collector of such county, whose duty it shall be, on a failure of payment of the taxes thus assessed, at the time required by the provisions of this act, to levy thereon by virtue of such assessment so made as aforesaid, and sell as directed in other cases. Provided, it shall be lawful for any person or persons, non residents of the State, who may own lands or other property liable to taxation, to pay all taxes due upon such property to the Comptroller. Provided, however, that the tax on said property be paid to said Comptroller on or before the first day of December next after the assessment thereof; and it shall be the duty of the Comptroller to furnish a list of all such taxes so paid to him, together with the names of the persons paying the same, to the Assessor and Collector of the county for which such taxes were paid before the first of March thereafter.

Sec. 20. That it shall be the duty of the Assessor and Collector or the Comptroller, as the case may be, to receive the tax on the part of any lot, piece or parcel of land charged with taxes, provided the person paying such taxes, shall furnish the Assessor

and Collector or Comptroller with a particular specification of such part, or if the part, on which the tax shall be so paid, be an undivided share, shall state to the Assessor and Collector or the Comptroller as the case may be, who the owner of such share is, that it may be excepted in case of sale for tax on the remainder.

Sec. 21. That the Assessors and Collectors of taxes in the State of Texas shall receive, in payment of all taxes imposed, according to law, all coins made current by the laws of the United States at the rates thereby established.

Sec. 22. That it shall be the duty of every Assessor and Collector to forward to the Comptroller, every three months, a statement, in writing, of all moneys collected by him for State taxes and for county [taxes] on property in counties other than his own, giving the names of the persons from whom such taxes were received, and he shall, at all times, pay any drafts drawn on him by the Comptroller and Treasurer, whenever he shall have funds of the State in his hands, and he shall, on or before the first day of June in each and every year, pay over to the Treasurer of the State all moneys collected by him for State taxes and for county taxes on property in counties other than his own. It shall, also, be the duty of every Assessor and Collector, every three months, to return to the County Treasurer of his county a statement, in writing, of all moneys collected for county taxes on property situated in his county, with the names of the persons from whom the same was received, and he shall, also, pay over to the County Treasurer of his county, every three months, all county taxes collected by him on property situated in his county, and in his assessment of his taxes for counties other than his own county, the Assessor shall assess and collect a county tax of one half of the State tax.

Sec. 23. That it shall be the duty of the Comptroller to pay over to the Assessor and Collector of the county entitled to receive the same all taxes paid into the Treasury under the provisions of the nineteenth and twenty-second sections of this act, and that it shall be the duty of the Assessor and Collector so receiving the same to account and pay over to the County Treasurer of such county the amount of tax so received by him as aforesaid.

Sec. 24. That it shall be the duty of the Comptroller immediately after the day on which the Assessors and Collectors are required to make payment into the Treasury, to make out and publish a list of the delinquent Assessors and Collectors for the past fiscal year and the amount of their delinquency in a

newspaper printed at the Seat of Government, and forward copies of the same to the Chief Justice, Sheriff, Assessor and Collector, and Clerks of the County and District Courts in each county.

Sec. 25. That no allowance shall be made any Assessor and Collector in the settlement of his accounts for insolvent tax-payers, unless he shall present a list, certified to by the County Court of his county, as being a correct copy of the list of such insolvent tax-payers allowed by the Court, and filed in the office of the County Clerk, and said Assessor and Collector shall thereafter collect, if practicable, the taxes due from the persons named in said list, and make return thereof, according to law.

Sec. 26. That every Assessor and Collector of taxes for the State, on a settlement of his accounts with the Comptroller, shall be entitled to a compensation on the amount by him collected and paid into the Treasury, for the use of the State, of eight per cent. on all sums of one thousand dollars and less; five per cent. on all sums less than two thousand dollars, and more than one thousand dollars; four per cent. on all sums less than five thousand dollars, and more than two thousand dollars; three per cent. on all sums less than ten thousand dollars, and more than five thousand dollars; and one per cent. on all sums over ten thousand dollars, and on a settlement of his accounts with the County Treasurer of his county, one half of the like per cent. on the amount collected by him and paid into the Treasury for the use of the county.

Sec. 27. That if any Assessor and Collector of taxes shall demand or receive of any person more than lawful taxes, said officer shall forfeit and pay, upon conviction thereof before any court of competent jurisdiction, to and for the use of the party aggrieved, five times the amount so demanded and received, and be subject to presentment and indictment by the grand jury of his county for malfeasance in office, and upon conviction thereof, shall be fined in a sum not less than ten, nor more than fifty dollars, at the discretion of the jury trying the same, to be paid, when collected, into the county treasury.

Sec. 28. That if any Assessor and Collector shall fail or refuse to pay into the State treasury the amount of taxes by him collected for the use of the State on or before the day on which the same is made payable by the provisions of this act, and to pay into the treasury of his county the entire amount collected by him for the use of the county, such Assessor and Collector and his securities shall be liable to be sued upon their bond or bonds for the damages sustained by the State or county.

Sec. 29. That any person wishing to engage in any vocation or calling, on which a tax is imposed by law, shall, before engaging therein, pay to the Assessor and Collector of the county in which such vocation or calling is intended to be pursued, the amounts of the tax imposed for the use of the State, and to the county treasurer the tax imposed for the use of the county by the county court, and the receipt therefor shall entitle such person, on application to the county clerk, to a license to pursue such vocation or calling during such period, authorized by law, and may be covered by the amounts of said receipt: Provided, that when a license to pursue any vocation or calling, is desired for a shorter period than one year, and not less than four months, the Assessor and Collector, or the county treasurer, may receive the amount required, in proportion to the time for which such license is desired; and on filing the receipt of the Assessor and Collector, or the county treasurer, the clerk shall issue a license for the time corresponding with the amount which has been paid.

Sec. 30. When any person shall fail or refuse to pay the tax contemplated by the preceding section of this act, before engaging in any vocation or calling on which such tax is imposed, it shall be the duty of the Assessor and Collector forthwith to levy on any property of such persons to be found within his county, sufficient to pay the amount of such tax for one year, and all costs, and sell the same at public auction to the highest bidder, for cash, after advertising the same for ten days, by putting up a notice thereof at the courthouse door.

Sec. 31. That if from any cause the direct taxes of any county are not assessed and collected within the period mentioned in this act, the Comptroller shall appoint some other time within which said taxes shall be assessed and collected, and no person shall suffer any of the penalties herein imposed from any failure caused by such unavoidable change of time; but any person who shall fail to render his or her assessment lists, and pay their taxes within the period so designated by the Comptroller, shall incur all the penalties of this act.

Sec. 32. That if from any cause the sale of property seized for taxes shall not take place at the time first appointed, the Assessor and Collector shall appoint some other time, give the like notice, and proceed to sell such property in the manner prescribed in the first instance in this act.

Sec. 33. That if any officer is sued or prosecuted in consequence of proceedings made by him, under the authority of this act, or any law in force for the collection of revenue, it shall be lawful for him to plead the general issue, and give this act, or the



law under which he has proceeded, as an especial matter in evidence, on the trial of such suit or prosecution.

Sec. 34. That when any lands or tenements shall be advertised for sale by the Assessor and Collector of taxes, for any taxes accruing to the State, and such lands or tenements cannot be sold for the want of bidders, it shall be the duty of the Assessor and Collector to bid off the same for the State, for the amount of taxes due; and such lands may be redeemed within two years from the date of sale, by the owner or owners, or some other person for him, paying the amount of taxes, and one hundred per centum thereon, together with costs of sale. When property has been sold for the taxes of any year, and purchased by the State, and remains unredeemed, such property shall not be again assessed or sold for the taxes of any succeeding year; but on the redemption of said property by the owner, he shall be required to pay the taxes which would have accrued on said property, for each successive year, as though the same had been regularly assessed.

Sec. 35. That if any Assessor and Collector shall fail or refuse to surrender up his tax-roll to his successor in office, upon application, he shall upon conviction in the District Court, be fined in any sum not less than fifty dollars, for each and every month he may so fail or refuse to surrender up his tax lists to his successor.

Sec. 36. That where new counties have been created at this session of the Legislature, where the territory of said new county is taken from one or more counties, the Assessors and Collectors of the old counties from which the new one was taken, shall assess and collect the taxes in that portion of the new county, which was taken from the county for which they have been elected Assessor and Collector, until the new county shall be organized, according to law.

Sec. 37. That the Assessors and Collectors, for going to and returning from the Seat of Government, when they go for the purpose of settling their accounts, and paying over all moneys due from them as Assessor and Collector, on the settlement of their accounts, they shall be allowed five cents per mile, in going to and returning from the Seat of Government, once in every year.

Sec. 38. All laws and parts of laws heretofore passed, in relation to the mode of assessing and collecting taxes, shall be, and the same are, hereby repealed, except so far as they relate to the collection of taxes heretofore assessed; and this act shall take effect and be in force from and after its passage.

Approved February 11, 1850.

## CHAPTER CLXIX.

## An Act to provide for settling the fiscal affairs of the late Republic of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That there shall be elected by a joint ballot of the two Houses of the Legislature, an agent, whose duty it shall be to settle with all collectors and receivers of public money under the late Republic of Texas.

Sec. 2. That said agent shall have power and authority in all cases, where a receiver of public [money] as aforesaid, shall be in arrears to the late Republic, and who is unable to settle the amount with which he is charged, to grant an extension of time to such officer for the payment of said amount; provided that such officer shall secure the State, by bond, payable to the State of Texas, with three or more securities to the satisfaction of said agent, in double the amount of said officer's liabilities; and in case the amount found to be due by said officer is not paid at the time stipulated in said bond, which shall not exceed three years from the date of settlement, the same shall be placed in the hands of the Attorney General for the recovery of the amount actually due the State, with eight per cent. interest and damages from the date of settlement to date of recovery, and all costs and other expenses incurred in the prosecution of such suit.

Sec. 3. That when any officer as aforesaid shall have rendered services, furnished supplies, or advanced money for the use and benefit of the late Republic of Texas under the sanction and authority of law, said agent shall be authorized in such event, to allow the same as a credit in settlement, retaining proper vouchers for such services rendered, or advances made as aforesaid, which claims shall be filed by said agent in the office of Comptroller of Public Accounts; provided, that no allowance shall be made for any claim or accounts where the services performed, advances made, or supplies furnished, were by any other person or persons than the officer himself, who presents them as sets-off to his indebtedness.

Sec. 4. That said agent, in settling with the sheriffs and ex-officio tax collectors, shall be authorized to make allowances for insolvent and delinquent tax payers, requiring the officer claiming credit for the same, to verify under oath to the correctness of the same.

Sec. 5. That whenever said agent is unable to settle with any revenue officer of the late Republic as aforesaid, he shall imme-

diately notify the Comptroller of the fact, whose duty it shall be to cause the accounts to be placed in the hands of the proper officer for collection; and in all cases where suits are commenced against a defaulting officer after having been called upon to settle, by said agent, the right of said officer to place set offs as provided for in a preceding section of this act, or any other benefits extended, shall be forfeited by such officer. In every case of delinquencies, where suit has been or shall be instituted, a transcript from the books of the Comptroller certified by him and authenticated under the seal of his office shall be admitted as evidence, and the court trying the cause may grant judgment and award execution accordingly; where suit is brought upon a bond or other sealed instrument, and the defendant shall plead non est factum, upon motion of the Court such plea or motion being verified by the oath or affirmation of the defendant, the court may take the same into consideration, and (if it shall appear to be necessary for the attainment of justice) may require the production of the original bond or other paper specified in such affidavit.—That said agent shall procure and preserve necessary and full vouchers for all off-sets of every description allowed by him in settlement with any receiver of public money of the late Republic of Texas, which vouchers he shall deposite in the office of the Comptroller of Public Accounts in his settlement with that officer.

Sec. 6. That the Comptroller shall furnish or assist in furnishing said agent, with the proper evidence of indebtedness of all collectors of public money under the late Republic, where accounts appear unsettled on the books of his office, and also furnish him such instructions as may tend to carry out effectually the intention of this act.

Sec. 7. That when a receiver of public moneys under the late Republic allowed interest on any liability issued to bear interest, the amount of interest said officer allowed the party, from whom he received such liability shall be allowed (him the officer) as a credit in settlement.

Sec. 8. That all that charcter of claims known as the first and second class claims, receipted for by the Auditor and Comptroller under the provisions of an act approved March 20th, 1848, shall be receivable in payment of any claims against the late Republic of Texas, for which treasury notes of said Republic have heretofore been receivable.

Sec. 9. That said agent shall be required to report and pay over the amount by him collected to the Comptroller at least eve-

ry six months, and oftener, if the said Comptroller shall require it, and the said agent shall follow the instructions of said Comptroller in the discharge of his official duties.

Sec. 10. That said agent, before entering upon the duties of his office, shall give a bond payable to the State of Texas for the sum of \$50,000, with at least five good and sufficient securities, to the satisfaction of the Governor of the State, and shall take the oath required by the Constitution, both of which shall be filed in the office of the Secretary of State.

Sec. 11. That the Governor shall have authority to remove or suspend any agent, under the provisions of this act, when, in his judgment, the public interest may require it.

Sec. 12. That said agent shall receive ten per cent. on the amount by him collected, and five per cent. on the amount by him arranged or secured; said per cent. to be taken out of the debt, thus arranged, and said agent's interest shall be in debts according to his manner of settling them.

Approved, February 11, 1850.



## STATE OF TEXAS.

I, JAMES WEBB, Secretary of State of the State of Texas, certify that the third Legislature of said State, commenced its session at the City of Austin, on Monday, the 5th day of November, in the year one thousand eight hundred and forty nine, and adjourned on Monday the 11th day of February, in the year one thousand eight hundred and fifty.

And I further certify, that the Acts and Joint Resolutions contained in this Volume are true copies, with the exception of the words embraced in brackets, taken from the original rolls deposited in the Department of State, with which they have been carefully compared.

Given under my hand and official seal, at the city of  
[L. S.] Austin, the twenty-fifth day of March, in the year  
one thousand eight hundred and fifty.

JAMES WEBB.

NOTE.—The words embraced in brackets were inserted by the Secretary of State in comparing the laws, supposing them to be omissions in enrolling the bills.

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**SPECIAL LAWS**

**OF**

**THE THIRD LEGISLATURE**

**OF**

**THE STATE OF TEXAS**

**VOLUME III.**

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**PUBLISHED BY AUTHORITY.**

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**AUSTIN.**  
**1850**





VOLUME III—PART II.

## SPECIAL LAWS.

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### CHAPTER I.

An act to amend the second section of an act to incorporate the Town of San Augustine, approved March 18, 1848.

Section 1. Be it enacted by the Legislature of the State of Texas, That the second section of the above entitled act, be, and the same is hereby so amended, as to read thus:

Sec. 2. That the bounds of said corporation shall include one square mile, or six hundred and forty acres of land, having the public square of said town in the middle, or centre, of said corporation; and that this act shall go into effect from and after its passage.

Approved, November 20, 1849. -

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### CHAPTER II.

An act to change the name of Daniel Richardson Kaufman, permanently to Daniel Kaufman Richardson.

Section 1. Be it enacted by the Legislature of the State of Texas, That the name of Daniel Richardson Kaufman, minor son of David S. Kaufman and Jane B. Kaufman of Sabine county, in this State, be, and the same is hereby changed to Daniel Kaufman Richardson.

Approved November 20, 1849.

## CHAPTER III.

## An act to incorporate the Austin College.

Section 1. Be it enacted by the Legislature of the State of Texas, That Daniel Baker, Sam Houston, Robert Smither, J. Carroll Smith, Henderson Yoakum, John Branch, John Hume, Hugh Wilson, James W. Miller, Joseph McCormack, Anson Jones, Abner S. Lipscomb and [Joseph W.] Hampton and their successors in office, be, and they are hereby constituted a Board of Trustees of a college to be established in or near the town of Huntsville, in Walker county, to be incorporated by the name of the Austin College, by which name it may sue and be sued, plead and be impleaded, and buy and sell property, real personal, and mixed, and hold the same. The said college shall have a common seal for the transaction of its business, which seal it shall have power to make, break and alter at pleasure.

Sec. 2. Be it further enacted, That a majority of the Trustees shall constitute a quorum to transact all ordinary business for the corporation. They shall have power to make such by-laws as they may think necessary for the government of the college and its finances; Provided, such by-laws are not inconsistent with the constitution and the laws of this State, or of the United States. They shall have power, also, to elect their own officers, to appoint their own committees, examine into any branch or department of said college and to appoint and dismiss Tutors—but it shall require the concurrence of two-thirds of all the Trustees to elect or remove the President or any one of the Professors.

Sec. 3. Be it further enacted, That the college shall have power to confer the usual degrees upon men distinguished in science and literature; and shall also have power, upon the recommendation of the faculty to confer the usual degrees upon deserving students, and to grant diplomas for the same: Provided, that such diplomas shall be first signed by a majority of the faculty of said college.

Sec. 4. Be it further enacted, That said Trustees shall have the power [of] fixing the salaries of all the officers connected with the college, and also, of filling all the vacancies in their own body till regularly filled as herein provided for.

Sec. 5. Be it further enacted, That all vacancies which may occur in the Board of Trustees, shall be regularly filled by the Presbytery of Brazos: but in case this Presbytery should be divided into two or more Presbyteries, this power shall be vested in that Presbytery in whose bounds the college shall be located, and in case of the formation of one or more synods, the power

aforesaid shall be transferred to that synod whose bounds shall embrace the college; Provided, that such synod shall be in regular connection with what is now known as the old school General Assembly.

Sec. 6. Be it further enacted, That a site, not exceeding ten acres of land, and the college buildings and library, are hereby declared exempt from taxation, while the property of the college.

Sec. 7. Be it further enacted, That no religious test shall be required of any President, Professor, or Tutor in said college; nor shall any student or officer be censured, suspended or expelled on account of his opinions, political or religious; Provided, however; that nothing herein contained shall prevent the Trustees of said college from throwing around the instructors and students a proper moral restraint, and inflicting suitable punishment upon all immoral conduct.

Sec. 8. Be it further enacted, That the President of the college shall [be] ex-officio President of the Board of Trustees, and shall be allowed such salary as a majority of the Board of Trustees, exclusive of himself, may direct; and no other member of the Board of Trustees shall hold any office in said college.

Sec. 9. Be it further enacted, That said college shall have power to established Professorships, and also, Scholarships and Fellowships in said institution; Provided, that the beneficiaries be subject to the same rules and by-laws as other students.

Sec. 10. Be it further enacted, That the seal of the corporation, with the attestation of the President or, in his absence, of the usual majority of the Trustees, shall be sufficient to authenticate any act of the corporation.

Sec. 11. Be it further enacted, That all donations and bequests to said college shall be good and binding, although the corporate name of said college may not have been properly stated by the person making such donation or bequest.

Sec. 12. Be it further enacted, That the Trustees of the college shall be individually liable for such debts as they may contract: Provided that if any Trustees who may be present at the making of any contract, shall protest in writing against the making of such contract, or not being present, shall, within thirty days next thereafter, make such protest, he shall not be personally liable in any manner for, or on account of such contract.

Sec. 13. Be it further enacted, That if the said Board of Trustees should hereafter think proper to establish a theological Professorship in said college, the Professor thereof shall not be subject to the provisions of the first clause of the eighth section of this act.

Sec. 14. Be it further enacted, That the said college shall not hold property beyond the amount of two hundred thousand dollars, the college buildings excepted; and that the funds belonging, or in anywise pertaining to the institution, shall not be diverted from the primary object for which it was donated.

Approved November 22, 1849.

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#### CHAPTER IV.

An act to amend an act to establish and incorporate Rutgersville College, approved February 5th, 1840.

Section 1. Be it enacted by the Legislature of the State of Texas, That the tenth section of "an act to establish and incorporate Rutgersville College," approved February 5th, 1840, be, and is hereby amended, so that it shall hereafter read as follows:—

Sec. 10. Be it further enacted, That whenever any vacancy shall occur in the Board of Trustees, either by death, resignation, or otherwise, such vacancy shall be permanently filled by the Texas Annual Conference of the Methodist Episcopal Church South at its next annual meeting thereafter; that any vacancy that may occur in said Board of Trustees shall be temporarily filled by the said Board of Trustees until the next annual meeting thereafter of said Texas Annual Conference of the Methodist Episcopal Church South; and that this act shall take effect and be in force from and after its passage.

Approved, Nov. 26, 1849.

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#### CHAPTER V.

Joint Resolution for the relief of Thomas Ward.

Be it resolved by the Legislature of the State of Texas, That Thomas Ward be paid the sum of four hundred and ninety-eight dollars and ninety-two cents for repairs on public buildings, out of any of the contingent fund not otherwise appropriated.

Approved, December 1, 1849.

CHAPTER VI.

An act to permit Mary Gillespie to adopt Susan Lavinia McGuffin, infant daughter of Samuel and Mary E. McGuffin, both deceased, late of the county of Grimes.

Section 1. Be it enacted by the Legislature of the State of Texas, That Mary Gillespie be, and she is hereby permitted to adopt Susan Lavinia McGuffin, infant daughter of Samuel and Mary E. McGuffin, both deceased, late of the county of Grimes; the act of adoption to be under the hand and seal of the said Mary Gillespie, executed before, and certified by a Notary Public, and recorded in the recorder's office of Grimes county, as in case of other deeds required by law.

Sec. 2. Be it further enacted, That the act of adoption shall vest the said Mary Gillespie with the rights, and impose on her the duties of natural mother, giving the said Susan Lavinia McGuffin the right of inheritance from the said Mary Gillespie, without the said Mary Gillespie having the right to inherit, by operation of law, any estate which has descended, or may hereafter descend to the said Susan Lavinia McGuffin from, or through her natural father or mother.

Approved, December 3, 1849.

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CHAPTER VII.

Joint Resolution for the relief of Albert Von Ger-Mar.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Commissioner of the General Land Office is hereby authorized and required to issue to Albert Von Ger-Mar a head-right certificate for three hundred and twenty acres of land.

Sec. 2. Be it further resolved, That this joint resolution take effect from and after its passage.

Approved, December 10, 1849.

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CHAPTER VIII.

An act to incorporate the Marshall Cemetery Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That Samuel Frion, George Lane, James C. Hawley,

George Young, James A. Simpson, F. H. Miller, W. R. D. Ward, W. S. Taylor, T. A. Harris and William Evans, and their successors, be a body corporate, by the name and style of the Marshall Cemetery Company, and by that name may sue and be sued, and hold, own, sell, and dispose of real estate, not exceeding twenty-five acres, for a burying ground.

Sec. 2. Be it further enacted, That said body corporate shall have power to establish by-laws, not inconsistent with the constitution and laws of this State, the number and character of officers, with their powers, the manner in which they are to be chosen, their duties, and to make all other necessary and proper regulations.

Sec. 3. Be it further enacted, That two-thirds of all the members of said body corporate shall be necessary to form a quorum to make the by-laws in the preceding section mentioned.

Approved, December 12, 1849.

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## CHAPTER IX.

### Joint Resolution for the relief of Hugh McClure.

Whereas, in the year 1837, Hugh McClure, a citizen of the State of Virginia, advanced and paid to Samuel M. Williams, Commissioner, &c., three hundred and twenty dollars for land scrip No. 260, for six hundred and forty acres of land, which land scrip has been lost;

And whereas, there exists no law by which the said McClure can obtain a duplicate of the same; therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That the Commissioner of the General Land Office of this State be, and he is hereby required to issue to Hugh McClure a certificate for six hundred and forty acres of land, to be located and patented in the same manner as other land scrip; Provided that the said McClure shall have complied in all respects with the law regulating the issuance of duplicate land certificates, &c., and that this resolution take effect from and after its passage.

Approved, December 12, 1850.

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## CHAPTER X.

### An act for the relief of C. C. Taylor.

Section 1. Be it enacted by the Legislature of the State of Texas. That the sum of four hundred and fifty dollars be, and

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the same is hereby appropriated to the use and benefit of C. C. Taylor, for making and forwarding to the General Land Office a map of Robertson Land District, and that the same be paid out of any money in the treasury not otherwise appropriated.

Sec. 2. Be it further enacted, That this act take effect, and be in force from and after its passage.

Approved, December 14, 1849.

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## CHAPTER XI.

### An act to incorporate the Brownsville Lyceum.

Section 1. Be it enacted by the Legislature of the State of Texas, That J. R. Palmer, F. J. Parker, R. N. Stansbury, E. S. Dougherty, L. A. Bryan, E. B. Scarborough, F. Grancisky, S. Musina, J. J. H. Grammont, E. Basse, I. E. Garey, J. A. Watson and George Dye, and their associates and successors be, and they are hereby constituted a body politic and corporate, for the encouragement of scientific and literary pursuits only, by the name and style of the Brownsville Lyceum, and may sue and be sued, prosecute and defend, in any of the Courts of this State; may grant, purchase and receive, by its corporate name, real and personal property not exceeding twenty-five thousand dollars in value; and may have a common seal, with any device upon the same the Lyceum may determine, to be altered or changed by the will of said Lyceum; may adopt such a constitution, by-laws and regulations for the management of the affairs of the Lyceum as the regular members thereof may deem proper, not contrary to the constitution and laws of the State.

Sec. 2. Be it further enacted, That the library, cabinet and apparatus of the Lyceum shall be free and exempt from all taxation, but the balance of the property shall be regularly given in for taxation by such officers as the Lyceum may direct, according to the provisions of the tax laws of the State.

Sec. 3. Be it further enacted, That this act of incorporation shall be subject to such modifications, extensions and limitations as the Legislature may from time to time provide.

Sec. 4. Be it further enacted, That this act take effect from and after its passage.

Approved, December 18, 1849.

## CHAPTER XII.

An Act to change the names of Melissa J., James Alexander and Parola Simonds.

Section 1. Be it enacted by the Legislature of the State of Texas, That the names of Melissa J. Simonds, James Alexander Simonds, and Parola Simonds be, and the same are hereby changed to Melissa J. Mitchell, James Alexander Mitchell, and to Parola Mitchell, respectively.

Sec. 2. Be it further enacted, That this Act take effect from and after its passage.

Approved, December 18, 1849.

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CHAPTER XIII.

An act authorizing and requiring the Commissioner of the General Land Office to issue a head-right certificate to A. S. Cunningham.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue a certificate for one-third of a league of land, first class, to A. S. Cunningham; which said certificate shall subject the owner thereof to the same liabilities as to government dues and office fees as are imposed on others of the same class.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, December 19, 1849.

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CHAPTER XIV.

Joint Resolution for the relief of John Barton.

Whereas, John Barton entered the service of Texas previous to the first day of August, 1836, as a volunteer during the war, and afterwards received an honorable discharge from the army of Texas, which rendered him legally entitled to one-third of a league of land, as a head-right; and whereas, he has never received a certificate; therefore,

Section 1. Be it resolved by the Legislature of the State of



Texas, That the Commissioner of the General Land Office of this State be, and he is hereby authorized and required to issue to the said John Barton a certificate for one-third of a league of land, as his head-right, to be located and patented on the same terms, and in the same manner as other first class certificates; and that this resolution take effect and be in force from and after its passage.

Approved December 20, 1849.

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CHAPTER XV.

Joint Resolution for the relief of the heirs and assignees of Benjamin D. Nobles, deceased.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Comptroller be, and he is hereby authorized to receive the amount due on lots Nos. 1 and 2, in block 67, and lot No. 12, in block No. 55, in the city of Austin, from the legal representative of Benjamin D. Nobles, deceased, and upon the receipt thereof, that he issue the usual certificate for patent.

Approved, December 31, 1849.

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CHAPTER XVI.

Joint Resolution for the relief of the heirs of Peter Crudden, deceased.

Whereas, Peter Crudden entered the army of Texas in Captain Allen's company of volunteers, on the fifteenth day of October, in the year eighteen hundred and thirty-six, and served as a member of said company until the twenty-third day of January, in the year eighteen hundred and thirty-seven, when, upon a reorganization of the army, he was attached to Captain Neill's company in the first regiment of permanent volunteers, and served in the same faithfully until his death; and whereas, by law he was entitled to a head-right of six hundred and forty acres of land, and the said Crudden died without having received the said land, or any part thereof; and whereas, neither the widow nor heirs of the said Crudden have ever received said land or any part thereof; therefore,

Section 1. Be it resolved by the Legislature of the State of

Texas, That the Commissioner of the General Land Office be, and he is hereby authorised and required to issue to the heirs of Peter Crudden, a land certificate for six hundred and forty acres of land, and cause the same to be surveyed and patented in the same manner as other first class certificates, by the said heirs paying the fees for the same, as in other cases; and that this resolution take effect and be in force from and after its passage.

Approved, December 31, 1849.

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#### CHAPTER XVII.

An act to authorize and require the Commissioner of the General Land Office to issue a patent to Robert W. Latimer for six hundred and forty acres of land.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to Robert W. Latimer a patent for six hundred and forty acres of land, on certificate number four hundred and fifty-three, issued to said Latimer by the Board of Land Commissioners for Shelby county, and dated the first day of May, A. D. 1848; Provided that said Latimer shall pay the same fees as required by law on other third class head-right certificates.

Sec. 2. Be it further enacted, That this act shall take effect and be in force from and after its passage.

Approved, December 31, 1849.

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#### CHAPTER XVIII.

An act to incorporate the President and Trustees of the Guadalupe High School Association.

Section 1. Be it enacted by the Legislature of the State of Texas, That William E. Jones, Andrew Neill, Thomas D. Johnson, H. C. Fountain, Wm. H. Gordon, Samuel W. Elliott and J. B. Morgan and their associates be, and they are hereby created a body politic and corporate, under the name and style of the President and Trustees of the Guadalupe High School Association, and by that name may sue and be sued, in all actions of law and equity, may have a common seal and the same may al-

ter, change or destroy, and they shall be capable of holding and acquiring property, real and personal, either by donation or purchase, to the amount of thirty thousand dollars.

Sec. 2. Be it further enacted, That the annual election for President, Secretary, Treasurer and Trustees, shall be held in Seguin by the members of the Association, on the first Tuesday of January of each year, and the affairs of the Association shall be conducted by said officers as a Board of Trustees under the constitution and by-laws; Provided, the same are not inconsistent or contrary to the constitution or laws of the State.

Sec. 3. Be it further enacted, That the location of the institution shall be in the town of Seguin, Guadalupe county, and the objects thereof, to promote and advance the cause of education in the higher branches of literature and science.

Sec. 4. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, December 31, 1849.

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## CHAPTER XIX.

### Joint Resolution for the relief of James M. Manning.

Whereas, James M. Manning emigrated to the Republic of Texas, and entered the army thereof previous to the first day of August, in the year eighteen hundred and thirty-six, and served a tour of duty thereafter; and previous to the first day of January in the year eighteen hundred and forty, introduced his family and settled in said Republic; and whereas, said Manning has never received any augmentation of land for the introduction of his family, &c.; therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That the Commissioner of the General Land Office of this State be, and he is hereby authorized and required to issue to the said James M. Manning, a certificate for two-thirds of a league and one labor of land, to be located and patented under the same rules and regulations as are provided by law in first class certificates; and that this joint resolution take effect and be in force from and after its passage.

Approved, December 31, 1849.

## CHAPTER XX.

An act supplementary to an act to incorporate Austin College, approved November, 1849.

Section 1. Be it enacted by the Legislature of the State of Texas, That A. J. Burke, Daniel D. Atchison and George C. Redd be, and they are hereby appointed Trustees of Austin College, in addition to the Trustees heretofore appointed in the act to which this is a supplement.

Sec. 2. Be it further enacted, That the said Board of Trustees of Austin College, and their successors, shall hold and exercise the duties of their office for the term of six years; Provided, however, that the Brazos Presbytery may, at their first regular session, or at a special session called for that purpose, so class the present Board of Trustees, that the term of one-third of their number shall expire at the termination of two years, one-third at the end of four years, and the remaining third at the end of six years.

Sec. 3. Be it further enacted, That all laws and parts of laws in conflict with this supplementary act be, and they are hereby repealed and that this act take effect and be in force from and after its passage.

Approved, Jan. 3, 1850.

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CHAPTER XXI.

An act to authorize James Knight to adopt Lucinda E. Nibbs, daughter of Mary Beckham, deceased, late of the county of Fort Bend.

Section 1. Be it enacted by the Legislature of the State of Texas, That James Knight be, and he is hereby permitted to adopt Lucinda E. Nibbs, wife of William B. Nibbs, and daughter of Mary Beckham, deceased, late of the county of Fort Bend: the act of adoption to be under the hand and seal of the said James Knight, executed before, and certified by a Notary Public, and recorded in the county clerk's office of Fort Bend county, in the same manner as other deeds of conveyance.

Sec. 2. Be it further enacted, That the act of adoption shall vest the said James Knight with the rights and impose on him the duties of a father, giving the said Lucinda E. Nibbs the rights

of inheritance from the said James Knight, without the said James Knight having the right to inherit, by operation of law, any estate which has descended, or which may hereafter descend to the said Lucinda E. Nibbs from, or through her ancestors.

Approved, Jan. 8, 1850.

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CHAPTER XXII.

An act to authorize the Commissioner of the General Land Office to issue a head-right certificate, first class, for one league and labor of land to James Taylor, and for one-third of a league to the heirs of William Irving Lewis.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue a certificate for one league and labor of land, first class, to James Taylor, and a certificate for one-third of a league of land to the heirs of William Irving Lewis, and that the same shall be subject to the same liabilities as to government dues and office fees as are imposed by law on others of the same class.

Approved, Jan. 10, 1850.

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CHAPTER XXIII.

An act to incorporate Rio Grande City.

Section 1. Be it enacted by the Legislature of the State of Texas, That the citizens of Rio Grande City, in Starr county, be, and they are hereby declared a body politic and corporate, under the name and style of the Corporation of Rio Grande City, shall have the powers of suing and being sued, pleading and being impleaded, and to hold property, real and personal, within the limits of said corporation, and at their pleasure to dispose of the same.

Sec. 2. Be it further enacted, That the corporate limits of said city shall extend one half mile in every direction from the centre of the public square.

Sec. 3. Be it further enacted, That it shall be the duty of the Chief Justice of the county, to order an election to be held as early as practicable after the passage of this act, upon

giving ten days notice of the same, for the election of one Mayor and six Aldermen, a Collector or Constable, Treasurer and Secretary, who shall hold their offices for the term of one year from the time of their election. In case a vacancy occurs by death, resignation or otherwise, the vacancy for the unexpired term shall be filled by a new election, as follows: In case of vacancy in office of Mayor, then the election to be conducted by a quorum of Aldermen, but in case of vacancy in the Board of Aldermen, Collector or Treasurer, then the election shall be conducted by the Mayor. All persons residing within the corporation shall be entitled to vote for the above named officers, who are eligible to vote for members of Congress.

Sec. 4. Be it further enacted, That the Mayor and two-thirds of the Aldermen shall constitute a Board to transact business.

Sec. 5. Be it further enacted, That the Collector, Treasurer and Secretary shall give bond to the Mayor and his successors in office, in such sum and with such securities as shall be approved by the Mayor and Board of Aldermen: and that all officers elected by virtue of this act, before entering upon the duties of their office, shall take and subscribe an oath for the faithful performance of the duties of their respective offices.

Sec. 6. Be it further enacted, That it shall be the duty of the Mayor to cause an election to be held annually, at least ten days before the expiration of his term of office, for Mayor, Aldermen, Collector, Treasurer and Secretary, who shall enter upon the duties of their offices respectively upon the expiration of the term of their predecessors.

Sec. 7. Be it further enacted, That the Mayor shall have jurisdiction, and exercise the powers of a Justice of the Peace, over all the offences committed against the ordinances and decrees of the Mayor and Board of Aldermen, within the limits of the corporation.

Sec. 8. Be it further enacted, That the corporate authorities of said Rio Grande City be, and they are hereby authorized and invested with the sole and exclusive powers to grant licenses to ferrymen upon the Rio Grande River, under such rules and regulations as they may prescribe, opposite to, and adjoining the said city; and that if any person shall establish any ferry, or shall transport any person or property for hire or reward across said Rio Grande River without such license, such person so ferrying or transporting any person or property, shall in each and every instance be liable to pay to the person having such license the

sum of twenty-five dollars, to be recovered before any court of competent jurisdiction.

Sec. 9. Be it further enacted, That the Mayor and Aldermen shall have power to pass such ordinances and decrees as they shall deem necessary for establishing schools and for the support of education; for the regulation of the police and the preservation of order; to prescribe penalties; to levy taxes; for the removal of nuisances; keeping streets in order, and for such other purposes as the Board may deem proper and necessary within the limits of the city; Provided, that such ordinances and decrees shall not conflict with the constitution and laws of this State.

Sec. 10. Be it further enacted, That this act shall be in force from and after its passage.

Approved, Jan. 10, 1850.

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#### CHAPTER XXIV.

An act for the relief of the heirs of George W. Maine.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue a certificate for one league and one labor of land to the heirs of Lieut. George W. Maine, deceased, who was killed at the Alamo with the command of Col. Barrett Travis, on the 6th day of March, 1836, in lieu of a certificate issued by the Board of Land Commissioners for the county of Calhoun to the administrator of the estate of said George W. Maine, dated the seventh day of June, in the year eighteen hundred and forty-seven, which said certificate, when issued by the Commissioner of the General Land Office, shall be valid against the State of Texas, and when located and surveyed, and the field-notes returned to the General Land Office, it shall be the duty of the Commissioner of the General Land Office to issue a patent thereon.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, January 10th. 1850.

## CHAPTER XXV.

An act supplementary to an act to establish and incorporate the College of DeKalb, approved January 26, 1839.

Whereas, by death, removal from the State, and other causes, vacancies have occurred in the Board of Trustees of said College, which cannot be filled by said Board according to the provisions of said act, in consequence of not having a quorum for the transaction of business; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That David Chisolm, Cairo Epperson, John C. Glass, James M. Wise, William A. Boyd, John W. Lee, Warren K. Dolby, Martin Glover, John Fizedale, Stephen H. Ellis, Joseph Burks and Charles Lewis be, and they are hereby constituted and appointed Trustees to fill the vacancies in said Board.

Sec. 2. The Board of Trustees of said College appointed by this act shall be divided by lot into three classes, as nearly equal as can be. The seats of the first class shall be vacated at the expiration of two years, the seats of the second class at the expiration of four years, and the third class at the expiration of six years. At the expiration of the above periods, the Board shall fill vacancies by elections, and if a vacancy or vacancies should occur in either of said classes before the expiration of their respective terms, the Board shall fill the same by election for the unexpired term.

Sec. 3. The persons that may be appointed as Trustees to fill the vacancies that may occur in the original Board, shall be subject to the same classification and regulation as those herein constituted and appointed to fill vacancies, and that this act be in force from and after its passage.

Approved, Jan. 11, 1850.

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CHAPTER XXVI.

An act to legalize the head-right certificate of Simon P. Barnes.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue a patent for



three hundred and twenty acres of land, on the certificate issued to said Barnes by the Board of Land Commissioners for Shelby county, dated 5th of April, 1843.

Sec. 2. That this act be in force from and after its passage.

Approved, Jan. 11, 1850.

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## CHAPTER XXVII.

Joint Resolution for the relief of the heirs of William Mockford.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Commissioner of the General Land Office of the State of Texas be, and he is hereby authorized and required to issue to the heirs of William Mockford, a land patent for twelve hundred and eighty acres of land, located by virtue of bounty land warrant No. 3,032, issued to William J. Hawkins, under the same rules and regulations governing the issuance of patents on similar certificates, and that this resolution take effect and be in force from and after its passage.

Approved, Jan. 11, 1850.

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## CHAPTER XXVIII.

Joint Resolution for the relief of John Balch.

Whereas, John Balch, a private soldier in Capt. York's company of volunteers, emigrated to Texas and participated in the storming of Bexar previous to the declaration of independence, and also served on a tour of duty in Capt. Wyly's company during the campaign of 1836, and participated in the battle of San Jacinto during said campaign; and whereas, said John Balch has never received his head-right land, as guarantied to him by the constitution of the late Republic of Texas; therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That the Commissioner of the General Land Office of this State, issue a certificate of one-third of a league of land to John Balch, in full satisfaction of all claims to a head-right certificate: Provided the said Balch shall be required to pay the same fees as required upon other first class head-rights.

Approved, Jan. 11, 1850.

## CHAPTER XXIX.

## Joint Resolution for the relief of Benjamin F. Fry

Whereas, Benjamin F. Fry entered the army of Texas in October, 1835, and aided in the siege of Bexar; was a citizen of Texas at the date of the declaration of independence; participated in the battle of San Jacinto, and has never received his head-right certificate for one-third of a league of land as guarantied to him by the constitution and laws of the late Republic of Texas; therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That the Commissioner of the General Land Office of this State be, and he is hereby authorized and required to issue to Benjamin F. Fry, a land certificate for one-third of a league of land, to be located and patented under the same rules and regulations that are provided by law in the case of first class certificates; and that this resolution take effect and be in force from and after its passage.

Approved, January 11, 1850.

## CHAPTER XXX.

## An act to incorporate the Texana College.

Section 1. Be it enacted by the Legislature of the State of Texas, That the persons hereinafter mentioned shall be commissioners to receive subscriptions for shares in an Academy association, to be styled the Texana Academy, to be located at Texana in the county of Jackson, and State of Texas.

Sec. 2. Be it further enacted, That the trustees to be elected as hereinafter provided, are hereby constituted a body politic and corporate with power of suing and being sued, pleading and being impleaded, answering and being answered unto, in all courts having jurisdiction, in the name and style of the President and Trustees of the Texana Academy. They shall have power to open books, to receive subscription, and donations to the capitol stock of said Academy to acquire hold and convey property, real and personal to have and use a common seal, to alter the same at pleasure, to make and alter from time to time, such by-laws as they may deem necessary for the government and regulation of said institution, its officers and servants, and property, provided such by-laws be not inconsistent with the constitution and laws of the United States, and of this State or of this act.

Sec. 3. Be it further enacted, That the Trustees of said institution shall consist of six stockholders; at the first annual election, two of whom, shall be elected by ballot for the term of three years, other two shall be elected for the term of two years, and other two shall be elected to serve for the term of one year, and who shall continue in office until their successors are duly elected; and every year thereafter there shall be an election of two Trustees, held at some convenient place, to be from time to time ascertained and fixed by the by-laws of said corporation, until the said academy is fitted for holding elections therein, after which all elections shall be held at said Academy; and that any person holding more than one right or share in said academy shall be entitled to one vote for each right or share he or she shall hold in the same.

Sec. 4. Be it further enacted, That the stockholders of said institution shall have power to fill such vacancy or vacancies of said Trustees as may happen by death, resignation or otherwise, and the said Trustees shall hold the property of said institution safely for the purpose of education in said Academy, and not as stock for the individual benefit of themselves or any contributors to the endowments of the same, and no particular religious faith shall be required of those who become trustees, teachers, officers, scholars or servants, of said institution, nor shall any teacher, trustee, or any other person connected with said institution be allowed or permitted to use any means or influence in order to induce any of said students to subscribe to any particular creed or faith, or to attend on or at any particular creed or place of worship to the exclusion of any other; all persons however may be suspended or expelled from said institution by the trustees thereof, whose habits are evil or vicious, or whose moral character is bad.

Sec. 5. Be it further enacted, That said institution, shall be located in, or within half a mile of the town of Texana, in the county of Jackson, in said State; and the said trustees shall be competent in law or equity to take to themselves and their successors in office, in their said corporate name, any estate, real personal or mixed, by the gift, grant, bargain and sale, conveyance, will, devise or bequest of any person or persons whomsoever, and the same estate, whether real, personal, or mixed, to grant, bargain, sell, demise or place out on interest or otherwise dispose of, for the use of said institution, in such manner as shall seem to them most beneficial to the institution; said trustees shall faithfully apply all funds collected, or the proceeds, according to their best judgment, in erecting and completing a suitable

building or buildings, supporting the necessary officers, instructors or instructresses and servants, and procuring books, maps, charts, globes, and apparatus necessary to the success of said Academy, provided nevertheless, That in case any donation, devise, or bequest shall be made for particular purposes, accordant with the design of this institution, and the corporation shall accept the same; every donation, devise or bequest, shall be applied in conformity to the express conditions of the donor or devisor.

Sec. 6. Be it further enacted, That the stockholders shall annually elect a Treasurer for said institution, who shall, before he enters upon the duties of his office, give a bond with approved security to the President and trustees of said academy, in such penal sum as they may require, for the sure and faithful performance of his duty as Treasurer, and in case of his death, removal, refusal, or neglect to serve, it shall be lawful for the President and Trustees of the Academy at any of their meetings, to appoint another Treasurer in his stead, to remain in office till the expiration of the time during which his predecessor was elected.

Sec. 7. Be it further enacted, That all process against the said corporation shall be by summons, and the service of the same shall be by leaving an attested copy thereof with the Treasurer, or at his usual place of abode, at least twenty days before the return thereof.

Sec. 8. Be it further enacted, That the President and Trustees shall have power to employ and appoint a principal for said institution, and all such instructors and teachers, and servants as may be necessary, and to displace them, as the interest of the Academy may require the same; and to fill all vacancies which may happen by death or otherwise.

Sec. 9. Be it further enacted, That the trustees shall meet annually, and oftener if they think necessary, in the town of Texana, and they shall, at their first meeting, elect one of their body President, who shall hold the office during the term for which he was elected Trustee, and at the same time, they shall in like manner elect a treasurer. They shall appoint one of their body clerk, who shall faithfully record all the proceedings of said Trustees; they shall elect all officers and servants by ballot, and a majority of said Trustees shall be sufficient in all cases to transact the business of said corporation.

Sec. 10. Be it further enacted, That not over forty acres of land in one or more lots shall be held in perpetuity by said Academy, for the sole use and occupancy of the buildings and appendages connected therewith; and such land so held, together with

the buildings thereon, and all books, maps, and other property connected with and belonging to said institution, shall be held free from taxation.

Sec. 11. Be it further enacted, That on the payment of ten dollars to the treasurer, every free white person shall be considered a stock-holder, and be entitled to one vote for each share of ten dollars held by him; and it shall be lawful for each and every stock holder for the time being of said Academy, his executors, administrators or assigns, to give, sell, devise, and dispose of their respective rights or shares in said Academy, and such donee or purchaser shall be entitled to all the rights of the original holder.

Sec. 12. Be it further enacted, That E. M. Glenn, Thomas Haynes, A. T. Gayle, James Kerr, George Sutherland, J. S. Meniffee, Samuel Wilder, G. A. McDonald, C. L. Owen, L. M. White, Thomas Simons and F. F. Wells, be and they are hereby appointed Commissioners to solicit and receive subscriptions of stock to said institution, and give receipts for the same; and when the sum of five hundred dollars of stock is subscribed, said Commissioners, or any three of them, shall be authorized to give public notice in some newspaper of the time and place of holding an election of trustees of said institution, which first election shall be held at some convenient place in Texana, between the hours of twelve M. and six P. M. on said day, and the trustees so elected shall hold their offices until the 1st Monday in January following, at which time a regular election shall be held, as hereinafter provided, and the Chief Justice of said county shall act as judge of said election, and give certificates to those elected.

Sec. 13. Be it further enacted, That the second election of trustees, and any subsequent one, shall be held on the first Monday in January annually, at the Academy, between the hours of 12 M. and 6 P. M. on said day.

Sec. 14. Be it further enacted, That each stock-holder, shall be required at or before the first election for trustees, to pay to said Commissioners, five dollars on each share by him or her subscribed, and the residue in six months thereafter, or the amount paid shall be forfeited.

Sec. 15. Be it further enacted, That all elections for trustees shall be by ballot, with the name of the stock-holder or voter written on the ballot, and the number of shares of stock, he or she holds in said institution, and which ballot after the first election shall be given to the treasurer or clerk of the board of trustees; a majority of whom shall act as a board of election.

Sec. 16. Be it further enacted, That the said Academy, when erected and in operation, shall at all times be open for the use and

privilege of every free white person who may wish to be instructed there, if such free white person will comply with the laws and by-laws, and pay the sum affixed by said trustees, for the instruction of students attending there.

Sec. 17. Be it further enacted, That every free white person may at any time pay the sum of ten dollars, to the treasurer of the Academy; it shall be the duty of the treasurer to accept the same, and give him a receipt for the same, and, upon the presentation of said receipt to the clerk, it shall be the duty of the clerk, to issue to the holder a certificate of stock, for the amount paid.

Sec. 18. Be it further enacted, That all conveyances of property belonging to said institution, shall be made by the President, under the seal of said corporation.

Sec. 19. Be it further enacted, That if at any time the corporation shall violate the provisions of this charter, it shall be the duty of the Attorney General to file an information in the nature of a quo warranto, for the purpose of vacating this act; provided, in that case, the trustees shall have the right of selling all the property, real and personal, belonging to said corporation, for the sole benefit of the stock-holders, who shall be entitled to the same, as soon as it is collected; and it shall then be considered as money paid to the use of the said stock-holders.

Sec. 20. Be it further enacted, That in case it should happen that an election should not be made on any day, when in pursuance of this act it ought to have been made, the said corporation shall not for that reason be deemed to be dissolved, but that it shall be lawful on any other day, to hold and make an election of trustees in such manner as shall have been regulated by the by-laws and ordinances of said corporation.

Approved, January 2, 1850.

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## CHAPTER XXXI.

An act to authorize the Commissioner of the General Land Office to issue a head-right certificate, first-class, for one league and labor of land, to John Boyd, assignee of George W. Mead.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue a certificate of

one league and labor of land, first class, to John Boyd, assignee of George W. Mead, and that the same shall be subject to the same liabilities as to government dues and office fees as are imposed on others of the same class.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, January 16, 1850.

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## CHAPTER XXXII.

An act for the relief of Washington H. Secrest.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue a certificate for one league and one labor of land, the same being his head right, to Washington H. Secrest.

Sec. 2. Be it further enacted, That the said certificate may be located upon any of the vacant and unappropriated lands of this State, and that the Commissioner of the General Land Office be, and he is hereby required, upon the return of the field notes, to issue a patent to said Secrest, upon his paying the same fees and government dues required of colonists who emigrated previous to the second day of May, 1835, according to the requirements of law.

Approved, Jan. 16, 1850.

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## CHAPTER XXXIII.

An act making an appropriation for the pro rata pay of Thomas P. Anderson, deceased, Surgeon in the Navy of the late Republic of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of eight hundred and forty-eight dollars and four cents be, and the same is hereby appropriated out of any money in the treasury not otherwise appropriated, to be paid to the widow and heirs at law of Thomas P. Anderson, deceased, being the amount to which he was entitled under the provisions of an act making an appropriation for the pro rata pay of the officers and seamen of the Navy of the Republic of Texas,

approved Feb'y 5, 1844; Provided, that the provisions of this act shall not have force and effect, if the claim herein referred to belongs to a third party, or any other than the widow and child of Dr. T. P. Anderson; and provided, further, that the Comptroller shall, before paying the amount, require the heirs and representatives of said Anderson to surrender any certificate or other evidence of debt which may have been issued, relative to the debt herein referred to.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, Jan. 16, 1850.

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#### CHAPTER XXXIV.

An act to incorporate the town of Castroville.

Section 1. Be it enacted by the Legislature of the State of Texas. That the citizens of the town of Castroville, in the county of Medina, are hereby declared a body politic and corporate, by the name and style of the Town of Castroville, and by that name may sue and be sued, plead and be impleaded, and may hold and dispose of real and personal estate in said town.

Sec. 2. Be it further enacted, That the bounds and limits of said town and within which the said corporation shall exercise lawful jurisdiction, shall include and comprehend the whole of the league of land upon which said town is situated.

Sec. 3. Be it further enacted. That the town council of said town shall consist of a Mayor and five Aldermen, who shall be elected by the qualified electors residing within the corporate jurisdiction on the first Monday in January in each year.

Sec. 4. Be it further enacted, That there shall also be elected by the qualified electors at the same time of the election of the town council, a treasurer and collector, who shall be required to give good and sufficient security, to be approved by the council, for the faithful discharge of their duties, the amount of their bonds, if forfeited, to be paid into the city treasury.

Sec. 5. Be it further enacted, That the members of the city council, and the treasurer and collector, shall hold their offices for one year, or until their successors are qualified.

Sec. 6. Be it further enacted, That the Mayor and Aldermen and other officers elected, shall enter upon the discharge of their duties on the second Monday in January of each and every year.



Sec. 7. Be it further enacted, That if, from any cause, an election shall fail to be held for the aforesaid corporate officers at the time herein prescribed, it shall be the duty of the Chief Justice of the county of Medina, upon the application of any five citizens, to order a special election, and the officers elected at such special election shall hold their offices until the second Monday in January thereafter, and no longer.

Sec. 8. Be it further enacted, That no person shall be a member of said town council who is not either a householder or owner of real estate within the boundaries of said corporation, and who has not resided therein at least six months previous to an election, nor shall any person vote for any of said corporate officers, unless such voter has had a like residence, and paid his city taxes.

Sec. 9. Be it further enacted, That the Mayor shall be president of the council, and that the Mayor and three Aldermen shall constitute a quorum to do business. If the office of Mayor shall become vacant, the council shall have power to appoint one of their own members to act as Mayor during such vacancy; and if a vacancy should occur in the office of Alderman, the council shall have the power to appoint another to fill the unexpired term of such Alderman.

Sec. 10. Be it further enacted, That the council shall have power to enact and enforce such ordinances and regulations as they may deem necessary for the good government and general improvement of said town; Provided, the same shall not conflict with the constitution or laws of this State. They shall also form by-laws to regulate their own proceedings, and shall have full power and authority to enforce proper police regulations. They shall also have power and authority to regulate the paving and cleaning the streets, regulating the markets, removing nuisances, establishing the squares, side walks and alleys of the town; and for these and similar purposes, may appoint such officers as they may deem necessary, and prescribe their compensation, and remove them from office at the pleasure of the council.

Sec. 11. Be it further enacted, That said council shall have power to levy equitable and moderate taxes upon all fixed and moveable property within their jurisdiction, and recover the same upon process issued by the Mayor, after five days notice: the poorer class of citizens may be permitted to contribute their manual labor upon works of public utility, in lieu of taxes; the quantity of said labor to be regularly apportioned by the council. The council shall also have power to grant licenses to retailers of spirituous liquors, keepers of billiard tables, places of public

amusement, &c.; Provided, that no gambling establishment, nor any other contrary to law shall be protected by such license, nor shall any license tax be imposed upon any mechanical or agricultural employment.

Sec. 12. Be it further enacted, That any suit instituted before the Mayor for the recovery of any taxes, dues, licenses, penalties or forfeitures, where the amount in controversy exceeds ten dollars, the defendant shall have the right of trial by jury of six men.

Sec. 13. Be it further enacted, That the council shall have power to inflict moderate fines for the breach or non-observance of its ordinances, and collect the same as in other cases. Any person aggrieved by the decision or judgment of the Mayor, shall in all cases have the right of appeal to the District Court.

Sec. 14. Be it further enacted, That the Mayor shall have the same jurisdiction in criminal cases or breaches of the peace, as is by law vested in Justices of the Peace.

Sec. 15. Be it further enacted, That all elections for Mayor, members of the Council and other officers shall be held at the time prescribed, after ten days notice of said election has been given by the Mayor, and the Mayor and Aldermen shall conduct such election as President and managers thereof.

Sec. 16. Be it further enacted, That the Mayor shall have power to call special meetings of the council whenever in his opinion the interest of the town requires, and it shall be his duty in all cases to take care that the ordinances of the council are duly executed.

Sec. 17. Be it further enacted, That this act shall take effect and be in force from and after its passage.

Approved, January 16, 1850.

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## CHAPTER XXXV.

### An act for the relief of Thos. William Ward.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of two hundred and sixty-eight dollars and thirty-eight cents be, and the same is hereby appropriated out of any money in the treasury not otherwise appropriated, for the reimbursement of Thomas William Ward, late Commissioner of the General Land Office, for advances made by him for

the purchase and transportation of stationery, land patents, &c., in the year 1847, and that the Comptroller of Public Accounts issue to him a draft on the Treasurer for said amount.

Approved, January 19, 1850.

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CHAPTER XXXVI.

An act to incorporate the Texas Monumental Committee.

Section 1. Be it enacted by the Legislature of the State of Texas, That Albert L. Vail, George W. Sinks, John W. Dancy, William T. Russell, Isaac R. McFarland, Thomas W. Cox, John T. Cox, Hamilton Ledbetter, D. C. Gregory, A. P. Manley, William G. Webb, William Menifee, William P. Smith, Charles S. Longcope, R. B. Jarmon and Joseph Shaw be, and they are hereby constituted a body politic and corporate, under the name and style of the Texas Monumental Committee, and by that name shall be able and capable in law to purchase, buy, have, receive and enjoy, to them and their successors, lands, tenements, and hereditaments of any kind in fee, or for life, or for years, and personal property of any kind whatsoever; and all sums of money which may be purchased by them, or given, granted or bequeathed to them, for the purpose of building a monument over the remains of the decimated Mier prisoners, and the slain of Captain Dawson's Company, and over the remains of all those who have fallen in the cause of Texas, which they may be able to procure.

Sec. 2. Be it further enacted, That said Committee may have a common seal for the business of themselves and their successors; by their aforesaid names, they and their successors shall and may be able to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended in all the courts of law and equity in this State, and to grant, bargain and sell, or assign any lands, tenements, goods or chattels that may be acquired by the same, and to elect their own officers, employ agents or substitutes, and to do all things whatsoever for the purposes aforesaid, in as ample a manner as any person, or body politic or corporate can or may do by law.

Sec. 3. Be it further enacted, That said Committee shall elect a President, Secretary, and Treasurer, and such other officers as they may deem proper.

Sec. 4. Be it further enacted. That the President and four

members of said Committee shall constitute a quorum to do business; and in the absence or disability of the President, five members shall constitute a quorum at any regular meeting.

Sec. 5. Be it further enacted, That all monies loaned out at interest by said Committee for the purposes expressed in the first section of this act, all lands, tenements, goods and chattels acquired by said Committee, either by purchase or otherwise, shall be, and they are hereby declared to be free from any kind of public tax, until they may be disposed of by said Committee.

Sec. 6. Be it further enacted, That whenever any vacancy shall occur in said Committee, either by death or resignation, removal from this State or otherwise, such vacancy shall be filled by the Committee.

Sec. 7. Be it further enacted, That said Committee shall have power to pass such by-laws as shall not conflict with the constitution and laws of this State, and the constitution of the United States.

Sec. 8. Be it further enacted, That this act shall take effect and be in force from and after its passage.

Approved, January 19, 1850.

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#### CHAPTER XXXVII.

An act to change the name of William Lipe Waldradt to William Waldradt Dunlap.

Section 1. Be it enacted by the Legislature of the State of Texas, That from and after the passage of this act, the name of William Lipe Waldradt, of Cameron county, in this State be, and the same is changed to William Waldradt Dunlap.

Approved, January 19, 1850.

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#### CHAPTER XXXVIII.

An act for the relief of Mary Henderson.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required, upon the application of Mary Henderson or her legal representatives, to cancel patent No. six hundred and ninety-four, second class, for twelve hundred

red and eighty acres of land, situated on Wolf Creek, in Tyler county; and the said Commissioner of the General Land Office is further authorized and required to deliver to the said Mary Henderson, or her legal representatives, her headright certificate upon which said patent, number six hundred and ninety-four, was predicated, which certificate shall be sufficient authority to any lawful surveyor to survey the same upon any vacant and unappropriated public domain of the State; upon which certificate and survey, or surveys, the Commissioner of the General Land Office is hereby required to issue a patent or patents, as on any other legal claim against the government for land.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, Jan. 19, 1850.

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#### CHAPTER XXXIX.

An act supplementary to an act to incorporate the Western Texas Orphan Asylum, approved March 16, 1848.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Directors of the Western Texas Orphan Asylum, shall be, and they are hereby authorized to establish, in addition to said Asylum, an Agricultural School and such other institutions of learning, in any branch of the arts and sciences, as they may deem proper; and they shall have power in their corporate capacity, to control and govern the same, in the same manner and to the same extent, as they are now permitted to control and govern said institution.

Sec. 2. Be it further enacted. That said Directors shall have power upon the establishment of any such institution, to appoint a President and such other officers as may be necessary for conducting such institution; to appoint such Professors as they may deem proper, and regulate and prescribe their duties; and in conjunction with the faculty, and professors of such institution, may grant and confer such degrees, in arts and sciences, as are usually granted by Colleges and Universities. The said Directors shall also be vested with all such necessary powers, to secure the prosperity and objects of such institution, as are usually granted to similar institutions.

Sec. 3. Be it further enacted, That no religious qualification, or test whatever, shall be necessary in order to become a Professor or student of any institution established by said Directors;

nor shall any student be excluded from the benefits of the same. in consequence of his religious faith.

Sec. 4. Be it further enacted, That this act shall take effect and be in force from and after its passage.

Approved, January 19, 1850.

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## CHAPTER XL.

An act to incorporate the Grand and Subordinate Divisions of the Sons of Temperance.

Section 1. Be it enacted by the Legislature of the State of Texas, That the officers of the Grand Division of the Sons of Temperance, and their successors in office, be, and they are hereby declared to be a community corporation and body politic, by the name, style, and title aforesaid, and by that name, they and their successors shall, and may be capable in law, to have, receive and retain to them, and to their successors, property real and personal; also, devise and bequests, of any person or persons, bodies corporate or politic, capable of making the same, and the same at their pleasure to transfer or dispose of in such manner as they may think proper.

Sec. 2. Be it further enacted, That the said corporation and their successors, by the name, style and title aforesaid, shall be forever hereafter capable in law, to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in all or any courts of Justice, and before all or any Judge, officers or persons whatsoever in all and singular actions, matters and demands whatsoever.

Sec. 3. Be it further enacted, That the officers and members of all Subordinate Divisions under the jurisdiction of said Grand Division shall be entitled to the benefits of the provisions of this act, and may erect buildings for their own convenience, and hold property by the name of the particular Division; and the record of this charter in the office of the clerk of the county court, where such Subordinate Division is formed, shall be evidence of their incorporation under this act.

Sec. 4. Be it further enacted, That this act shall take effect and be in force from and after its passage.

Approved, January 19, 1850.

CHAPTER XLI.

An act for the relief of the Heirs or legal representatives of William H. Malone, deceased.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office, be, and he is hereby authorized to issue to the heirs or legal representatives of William H. Malone, deceased, a land certificate for six hundred and forty acres of land, as his headright certificate, and that said land be located, surveyed and patented in accordance with the laws, now in force, regulating the same.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved, January 19, 1850.

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CHAPTER XLII.

An act for the relief of the Heirs of Duncan McIntyre, deceased.

Whereas, Duncan McIntyre, joined the Army of the late Republic of Texas, as a volunteer, previous to the first day of August, eighteen hundred and thirty-six, and served a tour of duty as such, and died without receiving his headright certificate, as guarantied to him by the Constitution and laws of said Republic; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office of the State of Texas, be, and he is hereby authorized and required to issue to the heirs of said Duncan McIntyre, deceased, a land certificate for one third of a league of land, to be located and patented in the same manner, as provided in cases of first class certificates; and that this act take effect and be in force from and after its passage.

Approved, January 19, 1850.

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CHAPTER XLIII.

An act to amend an act entitled an act to incorporate Baylor University, approved February 1, 1845.

Section 1. Be it enacted by the Legislature of the State of Texas, That the tenth section of an act entitled an act to incor-

porate Baylor University, approved February 1, 1845, and in the words following, to wit: that when any vacancy shall occur either by resignation or otherwise in the board of trustees, such vacancy shall be filled by the Executive Committee, of the Texas Baptist Education Society, be and the same is hereby repealed.

Sec. 2. Be it further enacted, That when any vacancy shall hereafter occur, by death, resignation or otherwise, in the said board of Trustees, such vacancy shall be filled by the Texas Baptist State Convention.

Sec. 3. Be it further enacted, That this act shall take effect and be in force from and after its passage.

Approved, January 19, 1850.

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#### CHAPTER XLIV.

An act for the relief of Samuel G. Norvell and John H. Carter.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office, be, and he is hereby required to issue to Samuel G. Norvell and John H. Carter, certificates for six hundred and forty acres of land each, as their headrights; and that said certificates may be located, surveyed and patented, according to the laws now in force regulating the same; and that this act be in force, and take effect from and after its passage.

Approved, January 19, 1850.

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#### CHAPTER XLV.

An act to incorporate the Mount Vernon Male and Female Academies.

Section 1. Be it enacted by the Legislature of the State of Texas. That the present Trustees of Mount Vernon male and female Academies, in the village of Mount Vernon and county of Titus, be, and they are hereby constituted a body corporate and politic, by the name and style of the Trustees of the Mount Vernon Male and Female Academies, and as such shall be capable and liable in law to sue and be sued, to plead and be impleaded, and shall be authorized to make such laws and regulations as



shall be necessary for the government of said Academies; provided, such laws and regulations are not repugnant to the constitution and laws of this State; and for that purpose, may have and use a common seal, and appoint such officers as they may think proper out of their own body, and remove the same from office for improper conduct or neglect of duty.

Sec. 2. Be it further enacted, That said trustees of said body corporate shall be privileged to accept of, and may be invested with, all manner of property, real or personal, or mixed; also, all donations, gifts, grants, and privileges which may be hereafter made or granted to said institution, or which may be hereafter conveyed or transferred to said trustees or their successors in office, to have and hold the same for the use, benefit and behalf of said Academies, provided said property shall not exceed in amount thirty thousand dollars.

Sec. 3. Be it further enacted, That on the first Monday of August, in the year eighteen hundred and fifty, until which time the present trustees shall hold their office, and annually hereafter, the qualified electors for representative to the State Legislature, residing at the time within the precinct in which the Mount Vernon academies are situated, shall elect seven trustees for the succeeding year.

Sec. 4. Be it further enacted, That the election shall be held by three persons appointed by the acting Trustees, and a majority of said electors present and voting, shall be sufficient to constitute the persons so voted for duly elected Trustees, and in all cases the old Trustees shall hold their offices until their successors are elected.

Sec. 5. Be it further enacted, That said Academies shall be forever free from the control of any particular denomination of christians, but shall be ever open for the use and benefit of all.

Sec. 6. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, Jan. 24, 1850.

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## CHAPTER XLVI.

### An act for the relief of Lemuel M. Rodearmel.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Adjutant-General of the State be, and he is hereby authorized and required to issue to Lemuel M. Rodearmel or his assignees, a certificate for twelve hundred and eighty acres

of land, that being the amount to which he is entitled by law for services rendered in the army of the late Republic of Texas in the year 1837.

Sec. 2. Be it further enacted, That the certificate, when issued, may be located and the survey made on any vacant or unappropriated land of the State of Texas.

Sec. 3. Be it further enacted, That it shall be the duty of the Commissioner of the General Land Office, when the field-notes of said survey shall be returned to his office, to issue a patent thereon.

Sec. 4. Be it further enacted, That this act take effect, and be in force from and after its passage.

Approved, Jan. 24, 1850.

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#### CHAPTER XLVII.

##### Joint Resolution for the relief of James S. Patterson.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to James S. Patterson a certificate for one-third of a league of land, to be located on any of the vacant and unappropriated land of this State, and on the return of the field-notes and the payment of the government dues, to issue title as in other cases provided by law.

Sec. 2. Be it further resolved, That this joint resolution take effect and be in force from and after its passage.

Approved Jan. 24, 1850.

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#### CHAPTER XLVIII.

##### An act for the relief of Samuel G. Newton & Co., and Tilly and Hewitt.

Whereas, there was audited on the 27th day of January, 1849, in the Auditor's office of the State of Texas, in favor of Samuel G. Newton & Co., certain claims for services rendered the late Republic of Texas, in the army, in the year 1845, by Jackson Hewitt and James Cole, amounting to one hundred and seventy-eight dollars, the certificate to said Newton being number seventy-six, second class; also, on the 27th day of Janua-

ry, 1849, was audited in favor of Tilly & Hewitt, for services rendered in the army of the late Republic of Texas, by F. Ballard, J. Thomas, J. N. Dalton, and P. Rice, in the year 1845, amounting to three hundred and nineteen dollars, the certificate being number seventy-five, second class; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the Auditor of the State of Texas be, and he is hereby authorized and required to issue to Samuel G. Newton & Co., and Tilly & Hewitt, or their legal representatives, duplicate certificates for said claims when called for; provided, however, that the said Samuel G. Newton & Co., and Tilly & Hewitt, or their legal representatives, shall first give to said Auditor a bond in double the amount of their respective claims, with good and sufficient security, conditioned that the original certificates shall never hereafter become a charge against the State.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, Jan. 24, 1850.

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## CHAPTER XLIX.

An act changing the name of George North to George Douglass Bigelow.

Section 1. Be it enacted by the Legislature of the State of Texas, That the name of George North be, and the same is hereby changed to George D. Bigelow.

Sec. 2. Be it further enacted, That Israel Bigelow be, and he is hereby authorized and empowered to adopt the said George Douglass Bigelow as his son, and that such adoption shall confer upon the said George all the rights and privileges of his own child, with full capacity of inheriting from the said Israel.

Sec. 3. Be it further enacted. That this act take effect and be in force from and after its passage.

Approved, Jan. 24, 1850.

## CHAPTER L.

Joint Resolution authorizing the Comptroller of the State of Texas to exchange some of the public property in the City of Austin for a certain lot and buildings adjoining the General Land Office.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Comptroller of the State is hereby authorized and empowered to purchase with so much of the public property as may be necessary, a certain lot of ground and houses adjacent to the General Land Office, and dispose of said buildings so as to have them removed.

Sec. 2. Be it further resolved, That this joint resolution take effect and be in force from and after its passage.

Approved, Jan. 24, 1850.

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## CHAPTER LI.

Joint Resolution for the relief of the heirs of Wm. S. Tuten.

Whereas, William S. Tuten, a soldier in the late Republic of Texas, entered the army on the 7th day of May, in the year 1836, and died while in the service during the same year; and whereas, his heirs have never received the quantity of land to which he was entitled as his head-right; therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized to issue to the heirs of William S. Tuten a head-right certificate for one-third of a league of land, which certificate may be located upon any of the vacant and unappropriated lands of this State, and on the return of the field-notes, and the payment of the government dues, shall be patented as in other cases provided for by law.

Sec. 2. Be it further resolved, That this joint resolution take effect and be in force from and after its passage.

Approved, Jan. 24, 1850.

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## CHAPTER LII.

An act to incorporate the City of Brownsville.

Section 1. Be it enacted by the Legislature of the State of Texas, That the citizens of Cameron county in the State of Texas,

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residing within the limits of that section of territory situated and lying on the left margin of the Rio Grande in the county of Cameron aforesaid, formerly a part of the town tract of four leagues of land (ejidos) of the city of Matamoros, in the Republic of Mexico, be, and they are hereby declared a body politic and corporate, by the name and title of the "City of Brownsville," and by that name may sue and be sued, implead and be impleaded in all courts and in all actions and matters whatsoever, and by the same name may, by deed or gift, grant or purchase, hold and dispose of any estate, real or personal, within the limits of said city, for the use of the corporation, and may have a common seal, which they may alter and change at their pleasure, and all the right, title and interest of the State of Texas in and to all the land included within said tract, that was owned by the town of Matamoros, on the 19th day of December, 1836, shall be, and is hereby relinquished to the corporation of the city of Brownsville and their successors in office in trust for the use and benefit of said city; provided, this act shall not impair private rights.

Sec. 2. Be it further enacted, That said corporation shall have power to sell and alienate any portion of the lands owned by the said corporation, and appropriate the proceeds thereof to the erection of a substantial jail and courthouse for the use of the county of Cameron, and the balance shall be appropriated for the purpose of education within said city, and for no other purposes; provided, that no part of said land shall be sold or alienated until notice of such sale or alienation be given, by publishing the same in some newspaper printed in said city of Brownsville, for at least sixty days previous to the day of sale, or alienation of said land.

Sec. 3. Be it further enacted, That there shall be the following officers for said city, to wit: One Mayor, nine Aldermen, forming the city council, one of whom shall be chosen to preside, one treasurer, one city marshal, and as many subordinate officers not herein mentioned, for preserving the peace and well ordering the affairs of the city, as the city council shall direct and the mayor approve; the city council shall be the judges of the validity of the selection of all officers chosen under this act. The treasurer and city marshal shall give good and sufficient security, in such form, manner, and amount as the city council shall direct, subject to the approval of the mayor and aldermen. After the first election, [the mayor and aldermen] shall be elected for one year, and all other officers elected or appointed under this charter, shall hold their offices for one year, unless sooner removed, and shall, before

entering upon the discharge of the duties of their respective offices, respectively take the oath required by the constitution of the State of Texas.

Sec. 4. Be it further enacted, That the city council shall have full power to make and pass such by-laws and ordinances as they shall deem necessary to maintain the cleanliness and salubrity of said city, to ensure the safety and convenience of passing in the streets, squares, ways, alleys; to fix the squaring and prevent any encroachment or other undertakings on the same; to determine the completions and dimensions in the said streets and ways, at the cost of the proprietors of houses, lands or neighboring lots; to regulate the wharves, levies or landing places along the bank of the river; to erect a hospital for the sick, and to appoint a physician for the same; to provide for the maintenance of indigent citizens unable to support themselves; to establish and regulate such common schools as they may direct; to borrow money for the use of the corporation; to organize and regulate a fire department for the purpose of extinguishing and preventing conflagrations; to establish and determine fire limits in said city; to prevent the storage of gunpowder within the limits of said city in such quantities as to endanger the public safety; to establish an active system of inspection over the conduct of slaves; to provide for the lighting of streets; to permit or forbid theatres, shows or other public amusements; to close play-houses or places for shows or exhibitions whenever the preservation of order, public safety or tranquility shall require it; to establish one or more market places; to determine the mode of inspection of all eatables offered for sale in the market or other public places; to regulate everything relative to butchers, bakers, tavern-keepers, tippling houses, bowling saloons, billiards, draymen, horse-drivers, water-carriers, hucksters, hawkers and pedlers, and slaves employed as day laborers; to fix the salary of draymen, horse-drivers and water-carriers, and to make other regulations which may contribute to the better administration of the affairs of such corporation, as well as for the maintenance of the public tranquility and safety of the said city.

Sec. 5. Be it further enacted, That it shall be the duty of the mayor to convene the council whenever he shall deem it necessary, and to recommend such measures as he may deem proper for the public weal; to nominate for the council such subordinate officers as may be authorized to be appointed by said council; to grant licenses to such persons as the council may direct; to approve or disapprove all ordinances, by laws and regulations which said council may pass; and for this the council shall cause

all acts, ordinances, by-laws and resolutions, as soon as they shall be passed, to be placed before said mayor, and the said mayor shall approve or disapprove the same within three days after the same shall be so placed before him: If the mayor approves, he shall return the same approved to the council; if he disapproves, he shall return the act, ordinance, by-law or resolution, with the reason of his disapproval, to the council, and the said act shall not thereafter become a valid act, unless after its return [it] be read, together with the disapproval that accompanies the said act, ordinance, by-law or resolution, and then be passed by a vote of two-thirds of said council. If the mayor do not return any act, ordinance, by-law or resolution within three days as aforesaid, the same shall be deemed approved.

Sec. 6. Be it further enacted, That a majority of the whole number of aldermen councils elected shall constitute a quorum for transacting business except in case a tax is to be levied, when a vote of two-thirds shall be required.

Sec. 7. Be it further enacted, That the city council of the city of Brownsville shall have and exercise the power of laying and levying taxes upon all subjects of taxation within their corporate limits upon which a tax may be levied by the State, as may be deemed necessary; provided, said tax shall not exceed in any one year one half of the amount of the tax levied by the State upon such subjects of taxation; and provided, also, that such tax shall be apportioned in the same manner as the State tax, and the city treasurer or collector of taxes shall have the same power to enforce the collection of such taxes as may be imposed in said city, as the assessor and collector of each county has for its collection of the State and county taxes.

Sec. 8. Be it further enacted, That whenever it may be deemed necessary to open, alter, close or change any public road or street in said city, under the provisions of this act, it shall be the duty of the city council to give thirty days notice, by publication in one or more newspapers in the city of Brownsville, in the English and Spanish languages, requiring all persons having objections to the opening, altering, closing or changing of such road or street, to make their objections in writing on or before the expiration of said thirty days notice; and if after such objections have been received and considered, it shall appear to the city council that such opening, altering, closing or changing of such street or road is necessary, they shall proceed to appoint viewers, whose numbers, qualifications and duties shall be the same as are now laid down by the law regulating roads; and upon receiving their report, the city council shall proceed to open,

alter, close or change said public road or street, according to the powers and restrictions conferred and imposed by this act.

Sec. 9. Be it further enacted, That the first election of city officers under this charter, shall be held as soon as may be after the passage of this act, by the Chief Justice of the county of Cameron issuing his writs to two persons residing in the limits of this corporation, directing them to hold polls at two different places in said corporation, and to act as presiding officers; to appoint judges and clerks to assist in the election, who shall be sworn to faithfully conduct the election according to the provisions of this act. And said presiding officers shall post up notices [in] each [ward] in three public places within said city limits at least seven days before the election, of the time and place of holding the same; the polls for this purpose shall be opened at 9 o'clock, A. M., and closed at four o'clock, P. M., allowing an adjournment of one hour from noon. And after counting the votes in the presence of the judges, shall seal up true lists of the same, and deliver them to the Chief Justice aforesaid within three days after such election has been holden, and said Chief Justice shall thereupon give a certificate to the officers elected, who shall be empowered thereby to enter upon the duties of their respective offices, according to the provisions of this act; and that from and after the first election, all elections for charter officers—except to fill vacancies—shall be holden on the second Monday in December annually; and it shall devolve upon the city council to decide upon the time and places of keeping open the polls, always giving ten days notice of each election, by posting advertisements in each ward, and by publication in English and Spanish languages, in at least one newspaper printed in the city of Brownsville. And in case of vacancy of any of the officers which are filled by election under this act, the city council shall order an election in the manner aforesaid to fill such vacancy; and the officers first elected under this act shall hold their offices until the first Monday in January, eighteen hundred and fifty-one, or until their successors are duly qualified; and the Aldermen or city council chosen at the first election, shall lay off the city into three wards, containing as nearly as may be an equal number of voters in each ward; and each ward shall at every annual election hereafter be entitled to elect three Aldermen, and the three persons in each ward receiving the highest number of votes for Aldermen shall be elected.

Sec. 10. Be it further enacted, That the city council, subject to the approval of the Mayor, shall determine the compensation of the Mayor, Treasurer, City Marshal and all subordinate officers.



Sec. 11. Be it further enacted, That no election shall be contested by any person, unless within ten days after holding the same; and the person intending to contest shall cause the person having a certificate of election to be notified thereof, at least three days before the time he intends to appear and contest the election, and shall cause a statement in writing to be delivered to him by the city Marshal or his deputy, stating the grounds upon which he relies to sustain the contest. And in case the candidate elect cannot be found, then the notice and statement to be left at his usual place of residence. No ex parte testimony shall be received as evidence in any contested election, without the consent of the opposite party; and in all cases of contested elections, the Mayor and city council shall have power to settle all questions relative to the legality and number of voters thereon, and decide upon the candidate entitled to a certificate of election.

Sec. 12. Be it further enacted, That no person shall be eligible to any office in this corporation, or entitled to vote for city officers, unless he be a citizen of this State, and shall have resided in the corporate limits of the city for at least six months next preceding the election.

Sec. 13. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, January 24, 1850.

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## CHAPTER LIII.

An act for the relief of Richard B. Jarmon.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office of the State, be, and he is hereby authorized and required to issue to Richard B. Jarmon, a patent for one-third of a league of land, on the head-right certificate of John D. Raines, the same having been located in Gonzales county, and surveyed by Arthur Swift, deputy surveyor of Gonzales county, as per field-notes returned to the General Land Office, and marked (file 360, Gonzales county, first class,) survey number 41, in class 7, of one third of a league.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, January 25, 1850.

## CHAPTER LIV.

## Joint Resolution for the relief of Elizabeth Hart.

Whereas, the Commissioner of Power and Hewetson's Colony, now Refugio county, did on the 28th day of December, in the year 1834, grant to the said Elizabeth Hart, one league of land, and issued a title therefor; and whereas, the said title is incomplete, and insufficient in law to ascertain by the field notes the identity of the land intended by the Commissioner to be granted to the said Elizabeth Hart; and whereas, the Constitution of the Republic of Texas, plainly and expressly declared that every head of a family who emigrated to Texas as a colonist, previous to the revolution, shall be entitled to one league and labor of land; and the said Elizabeth Hart being within this proviso of the Constitution and laws; in order to secure to her and her heirs their constitutional rights; therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to cancel the title now of record in the said General Land Office of this State, issued to Elizabeth Hart on the 28th day of December, in the year 1834, by the Commissioner of Power and Hewetson's Colony, and in place thereof issue to said Elizabeth Hart, a certificate for one league of land.

Sec. 2. Be it further resolved, That the certificate so issued may be laid on any vacant and unappropriated land in this State, and that the Commissioner of the General Land Office is hereby directed to issue a patent for said land, when located, surveyed, and the field notes returned to his office, as in other cases of valid claims.

Sec. 3. Be it further resolved, That this joint resolution take effect and be in force from and after its passage.

Approved, January 25, 1850.

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CHAPTER LV.

## An act for the relief of General Memucan Hunt.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Auditor and Comptroller of the State, are hereby authorized and required to issue to General Memucan Hunt,

a certificate, or certificates for sixteen thousand two hundred and fifty-seven dollars, and eighty-six cents; provided, that the said Hunt shall have the right to surrender this claim or any part thereof, before the Auditor and Comptroller, and on presentation of their certificate of the fact to the Commissioner of the General Land Office, receive land certificates at the rate of fifty cents per acre therefor, in quantities not less than three hundred and twenty acres each.

Sec. 2. Be it further enacted, That the said certificate, or certificates shall entitle the said Hunt, to all the rights and privileges to which any other creditor of the Republic of Texas is entitled who has filed his claim, and received a certificate or certificates therefor under the act of the Legislature, approved March 20, 1848, entitled an act to provide for ascertaining the debt of the late Republic of Texas.

Sec. 3. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, January 25, 1850.

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#### CHAPTER LIV.

##### Joint Resolution for the relief of Joseph Branham.

Sec. 1. Be it resolved by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to Joseph Branham, a certificate for one-third of a league of land, as his head-right.

Sec. 2. Be it further resolved, That said land certificate when issued shall entitle the said Joseph Branham to have surveyed on any of the vacant and unappropriated lands of this [State,] one third of a league of land, upon the same conditions that certificates issued by virtue of the twentieth section of the land law of Texas, in the year eighteen hundred and thirty-seven.

Sec. 3. Be it further resolved, That this joint resolution take effect and be in force from and after its passage.

Approved, January 26, 1850.

## CHAPTER LVII.

## An act for the relief of Uzziel Baggett.

Section 1. Be it enacted by the Legislature of the State of Texas, That Uzziel Baggett, be, and he is hereby entitled to the following described parts of two sections of land, namely: the north half of section number twenty-five, and the south half of section number twenty-four, the same lying in township three south, range two west, in Peter's colony; provided, however, that the said Uzziel Baggett, shall be required to take the oath, and make the same proof as other emigrants to said colony, are required to make, in relation to the emigration and settlement in said colony.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, January 26, 1850.

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CHAPTER LVIII.

## Joint Resolution for the relief of Araminta D. Allen, heir at law of Preston P. Allen, lately a soldier in the army of Texas.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Commissioner of the General Land Office, be, and he is hereby authorized and required to issue to Araminta D. Allen, heir at law of Preston P. Allen, a certificate for one-third of a league of land.

Sec. 2. Be it further resolved, That the said land certificate when so issued, shall entitle the said Araminta D. Allen, or her assignee to have surveyed on any of the vacant and unappropriated land of this State, one-third of a league of land, upon the same conditions that certificates issued under the twentieth section of the land law of Texas, in the year eighteen hundred and thirty-seven.

Sec. 3. Be it further resolved, That this joint resolution take effect and be in force from and after its passage.

Approved, January 26, 1850.

CHAPTER LIX.

An act to legalize the headright certificate of Simon P. Barnes.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorised and required to issue a patent for three hundred and twenty acres of land, on the certificate issued to said Barnes, by the Board of Land Commissioners of Shelby county, dated fifth of April, 1843.

Sec. 2. That this act be in force from and after its passage.

Approved, January 26, 1850.

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CHAPTER LX.

An act for the relief of Mason W. Cope.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office, be, and he is hereby authorized and required to issue to Mason W. Cope, a patent for nine hundred and sixty acres of land surveyed by virtue of bounty certificate, number three thousand eight hundred and fifteen, issued by George W. Hockley, Secretary of War, dated on the eleventh day of June, in the year eighteen hundred and thirty-five, and granted to W. F. Gray as assignee of D. L. Kokernot, to the said Mason W. Cope as assignee of said W. F. Gray.

Sec. 2. Be it further enacted, That, said patent shall issue when said Gray pays the land dues and fees required by law, and not before; and that this act take effect and be in force from and after its passage.

Approved, January 26, 1850.

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CHAPTER LXI.

An act to incorporate the Bexar Manufacturing Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That Nathaniel Lewis, John D. Groesbeck, Bryan Callahan, C. J. Cook, John Bowen, F. Gilbeau, Thomas J. Devine, F. L. Paschal, Richard Burdsall, J. H. Beck, Samuel A. Maverick and William Vance, or such of them, or such other person as may

hereafter be associated with them, are hereby created a body corporate, by the name of the "Bexar Manufacturing Company;" and by that name may sue and be sued; may plead and be impleaded; may transfer their rights by succession or assignment; and also, by that name and style, they and their successors may purchase, hold and convey real and personal estate.

Sec. 2. Be it further enacted, That said company shall have the right to erect and establish in the county of Bexar, machinery and establishments for the manufacture of cotton and wollen goods, or such other articles, as said company may at any time manufacture for sale.

Sec. 3. Be it further enacted, That the capital stock of said company, shall be fifty thousand dollars, to be divided into five hundred shares of one hundred dollars each; and said company shall have authority to increase said capital to one hundred and fifty thousand dollars.

Sec. 4. Be it further enacted, That the affairs of said company, shall be managed by a board of five Directors, each of whom shall own at least five shares of the capital stock of said company; a majority of said directors shall constitute a quorum to do business, and shall have power to appoint a President from their own number, and to fill all vacancies that may occur in the board of directors, from death, resignation or otherwise, after the first election of directors by virtue of this act; all subsequent elections shall be held at the city of San Antonio, on the first Monday in January of each year: in case of failure to elect said directors at the time and place specified in this act, the corporation shall not be dissolved for that cause, but the President and directors previously elected shall continue to perform their duties, until their successors are chosen.

Sec. 5. Be it further enacted, That the directors shall be chosen by the stock holders of said company, and that each stock-holder shall have one vote for each share that he may own, and may vote in person or by proxy.

Sec. 6. Be it further enacted, That the President and Directors of said company shall have full authority to adopt all such rules, regulations and by-laws as they may consider necessary to effect the objects of this act of incorporation, not inconsistent with this act or the laws of this State; and may appoint and remove at their pleasure, all agents or other employees necessary to transact the business of said corporation.

Sec. 7. Be it further enacted, That every person subscribing for any of the capital stock of said company, shall pay such proportion thereof at the time of subscribing, as may be directed by

the terms of the original subscription list, and after the election of the first board of directors, the balance shall be paid at such times and upon such terms as said directors may designate; provided, that in all cases, when further payment may be required, notice thereof shall be given by advertisement in the nearest newspaper at least ninety days before the time of said payment.

Sec. 8. Be it further enacted, That if any stock-holder, shall fail or refuse to pay the balance of his subscription at the time required by said directors, it shall be lawful at any time after due notice and advertisement has been made in accordance with the preceding section of this act, for said directors to sell the shares of said stock-holder at public auction, after ten days previous notice of said sale has been given by public advertisement; and the purchaser of said shares, shall be subject to all the liabilities and entitled to all the benefits of the defaulting stockholder.

Sec. 9. Be it further enacted, That all suits instituted against said company, the service of process upon the President or upon either of the directors, shall be sufficient notice.

Sec. 10. Be it further enacted, That this act shall be in force from and after its passage.

Approved, January 26, 1850.

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## CHAPTER LXII.

### Joint Resolution for the relief of J. F. Brown and Lyman Tarbox.

Whereas, J. F. Brown and Lyman Tarbox, mail contractors on route No. from Houston to Austin, in this State, were bound by their contract to transport the mail but twice a week on said route; and whereas, the said Brown and Tarbox have, at their individual expense, transported the mail on said route each alternate day in four horse coaches, during the present session of the Legislature, thereby greatly facilitating the transmission of intelligence to and from the capital of this State, during the session of the Legislature; therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That our Senators in the United States Congress, be, and they are hereby instructed, and our Representatives requested to use their exertions to procure an appropriation by the United States Congress, for the payment of Messrs. Brown and Tarbox for such additional mail service, as the said parties may prove to have been performed.

Sec. 2. Be it further resolved, That this joint resolution take effect and be in force from and after its passage.

Approved, January 26, 1850.

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#### CHAPTER LXIII.

An act for the relief of B. C. Johnson, assignee of John F. Stacy.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office, be, and he is hereby authorized and required to issue a patent for fifty-six and one-half acres of land, on field notes No. 776, from Red River county, to B. C. Johnson, assignee of John F. Stacy, upon his filing in the General Land Office the proper field notes, with a regular transfer from said Stacy.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, January 26, 1850.

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#### CHAPTER LXIV.

An act for the relief of Amos Morrill.

Whereas, Calaway Davis was a resident citizen of Texas at the date of the Declaration of Independence, entered the service of the same in May, 1836, and married in 1837, by which he became entitled to one league and one labor of land; and whereas, the said Davis conveyed by deed, duly authenticated on the 26th day of March, 1840, said land, by which deed Amos Morrill became entitled to the same, which he has never received; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office of the State, be, and he is hereby authorized and required to issue to Amos Morrill, as assignee of said Calaway Davis, a certificate for one league and labor of land, to be located and patented in the same manner as other first class certificates.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, January 26, 1850.



CHAPTER LXV.

An act to establish and incorporate a Literary Institution, under the supervision and control of the Eastern Texas Annual Conference, located at or near the town of Henderson, Rusk county, in this State.

Section 1. Be it enacted by the Legislature of the State of Texas, That an institution of learning, be, and the same is hereby established, at or near the town of Henderson, in the county of Rusk, to be denominated "The Fowler Institute," under the supervision and control of the Eastern Texas Annual Conference, of the Methodist Episcopal Church South.

Sec. 2. Be it further enacted, That the following persons have been duly chosen Trustees of said institute, by the said Conference, and are recognized as such, to wit: William H. Estil, Samuel McClarty, Emory Lloyd, Winship S. Poe, Charles Lewis, William H. Johnson, James Smith, William Haweth and Martin H. Wadsworth.

Sec. 3. Be it further enacted, That the Trustees aforesaid, be, and they are hereby constituted a body politic and corporate in deed and in law, and by the name of the President and Trustees of the Fowler Institute, under the supervision and control of the Eastern Texas Annual Conference, of the Methodist Episcopal Church South; and by that name they and their successors in office, shall and may be able and capable in law, to have and receive, to hold and use all lands and tenements, moneys and hereditaments of any kind in fee or for life, or for years, for the use and benefit of the said Eastern Texas Annual Conference, of the Methodist Episcopal Church South; and also, personal property, of any kind whatsoever; and also, all sums of money which may be given, granted or bequeathed to them for the purpose of promoting the interest of said institution: provided the amount of property owned by said corporation, shall not at any time exceed one hundred thousand dollars—over and above the buildings, library and apparatus necessary for the institute.

Sec. 4. Be it further enacted, That the Trustees of said institute, shall have a stated meeting of the board each year at the time of conferring degrees, and that the President of said board, shall have power to call an occasional meeting of the board, whenever it shall to him appear necessary.

Sec. 5. Be it further enacted, That the Trustees of said institute may and shall have a common seal for the business of themselves and their successors in office, with liberty to change and alter the same from time to time, as they shall think proper;

and that they, by their aforesaid name, and their successors in office may, and shall be able to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in all courts of law or equity in this State; and (by and with the consent of the said Eastern Texas Annual Conference, of the Methodist Episcopal Church South,) to grant, bargain, and sell, or assign any lands, tenements, goods or chattels, now belonging or that may hereafter belong to said institute, to construct all necessary buildings for the same, and to construct a preparatory department, and such other dependent institutions, as they shall deem necessary; to have the management of the finances, the privilege of electing their own officers, of appointing all necessary committees, and to act, and to do all things whatever, for the benefit of said institute; in as ample a manner as any person or body politic or corporate, can or may do by law.

Sec. 6. Be it further enacted, That the said Trustees, shall have the power of framing and enacting all such ordinances and by-laws, as shall appear to them necessary, for the good government of the institute, and of their own proceedings; provided, the same be not repugnant to the constitution and laws of this State.

Sec. 7. Be it further enacted, That the head of this institute shall be styled the President; the instructors employed in it Professors, who shall be appointed by said Eastern Texas Annual Conference; and the President and Professors or a majority of them, the faculty of said institute, which faculty shall have the power of enforcing the ordinances and by-laws adopted by the Trustees of said institute, for the government of the students, by rewarding or censuring them, and finally by suspending such of them as, after repeated admonition, shall continue disobedient and refractory, until a determination of the Trustees or a quorum of them, shall be had; but it shall be only in the power of the Trustees, or a quorum of them at their stated meetings, to expel any student or students of said institute.

Sec. 8. Be it further enacted, That the President and Professors, shall have full power by and with the consent of the Trustees of said institute, to grant or confer such degree or degrees in the arts and sciences to any of the students of said institute, or other persons by them thought worthy, as are usually granted or conferred in other colleges or seminaries of learning, and to give diplomas or certificates of the same signed by them, and sealed with the common seal of the Trustees of said institute; to authenticate and perpetuate the memory of such graduations.

Sec. 9. Be it further enacted, That whenever any vacancy

occurs, either by death, resignation or otherwise, in the board of Trustees, such vacancy shall be filled by the appointment of said Conference.

Sec. 10. Be it further enacted, That all necessary sub officers for said institute and board of Trustees, shall be elected by a majority of the members of the board of Trustees.

Sec. 11. Be it further enacted, That whenever vacancies shall occur in the Presidency or any of the Professorships of the said institute, the same shall be filled by the said Conference.

Sec. 12. Be it further enacted, That the Trustees or a majority of them, by and with the consent of said Conference, shall have the power of fixing the salaries of all the officers and instructors connected with the institute, and of removing any of them for neglect or misconduct in office; a majority of the board of Trustees concurring in said removal.

Sec. 13. Be it further enacted, That no misnomer of the said institute, shall annul or make void in law or equity, any gift, grant or bequest, made to the same.

Sec. 14. Be it further enacted, That the President or Professors of said institute, shall not be eligible to act as Trustee or Trustees for the same, and in case any of the Trustees shall hereafter be employed to discharge any of the duties of those functionaries, to wit: Professors in said institute, he or they shall resign their station of Trustee, before entering on the duties assigned them.

Sec. 15. Be it further enacted, That **when any law, rule or resolution**, may be passed by the board of Trustees at a regular or stated meeting of said board, it shall not be competent for a called meeting of said board to repeal or recind such law, rule or resolution, unless there is a full board present.

Sec. 16. Be it further enacted, That this act shall take effect and be in force from and after its passage.

Approved, January 26, 1850.

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## CHAPTER LXVI.

An act for the benefit of the heirs of James Ury, deceased.

Whereas, James Ury joined the army of Texas in the year 1842, under the command of General Somervelle, and was killed in the battle of Mier; and whereas, the said Ury was entitled to three hundred and twenty acres of land at the time of his

death, by authority of an act entitled an act to extend to late emigrants or those who may emigrate within a specified time a donation of land, approved January 4th, 1838; and whereas, the said Ury had not at the time of his death, received of the government of Texas the land to which he was entitled as a citizen, nor has any one ever received the same in his name; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office, be, and he is hereby authorized and required to issue a certificate for three hundred and twenty acres of land to the heirs or legal representatives of James Ury, which may be located upon any of the unappropriated lands in Texas, subject to the same fees of office as other certificates; and that this act be in force from and after its passage.

Approved, January 28, 1850.

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#### CHAPTER LXVII.

Joint Resolution for the relief of the Heirs of William Arnold, deceased.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Commissioner of the General Land Office, be, and he is hereby authorized and required to issue to the heirs at law of William Arnold, deceased, an unconditional certificate for six hundred and forty acres of land, and to issue a patent thereon, after the same shall have been legally surveyed and located on any of the vacant lands of the State.

Sec. 2. Be it further resolved, That this joint resolution take effect and be in force from and after its passage.

Approved, January 28, 1850.

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#### CHAPTER LXVIII.

An act legalizing and confirming the marriage of William Pearson and Elizabeth Ogle.

Section 1. Be it enacted by the Legislature of the State of Texas, That the marriage of William Pearson and Elizabeth Ogle, now Elizabeth Ledbetter, be, and the same is hereby de-

clared legal and valid to all intents and purposes; and that the issue of the said William and Elizabeth Pearson, are hereby declared legitimate children, and capable of inheritance.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, January 28, 1850.

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## CHAPTER LXIX.

An act authorizing the Comptroller to issue duplicates of certain certificates.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Comptroller, be, and he is hereby authorized and required to issue to Charles Shearn, duplicates of certain certificates issued to him by the late Republic of Texas, for supplies furnished the army; which certificates were lost in the wreck of the steamship New York.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, January 28, 1850.

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## CHAPTER LXX.

Joint Resolution for the relief of Berry W. Perkins.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Commissioner of the General Land Office, be, and he is hereby authorized and required to issue to Berry W. Perkins a certificate for six hundred and forty acres of land, to be located on any of the vacant and unappropriated lands of this State, and on the return of the field notes and the payment of the government dues, to issue a patent as in other cases, provided by law.

Sec. 2. Be it further resolved, That this joint resolution take effect and be in force from and after its passage.

Approved, January 28, 1850.

## CHAPTER LXXI.

An act for the relief of the legal representatives of Henry B. Williams, deceased.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to the legal representatives of Henry B. Williams, deceased, a certificate for one-third of a league of land, to be located upon any of the vacant and unappropriated lands within this State.

Sec. 2. Be it further enacted, That after the location and the return of survey according to law, and the payment of all the government dues thereon, it shall be the duty of the Commissioner aforesaid to issue a patent upon said certificate, in the same manner as provided by law in other cases.

Approved, January 28, 1850.

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CHAPTER LXXII.

An act for the relief of E. H. Grisham.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office of the State be, and he is hereby authorized and required to issue to E. H. Grisham a certificate for six hundred and forty acres of land, to be located upon any of the vacant and unappropriated public lands within this State.

Sec. 2. Be it further enacted, That upon the return of the survey and field-notes under the said certificate to the General Land Office, and the payment of all government dues, it shall be the duty of the Commissioner aforesaid to issue a patent thereon, in the same manner as provided by law in other cases.

Sec. 3. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, January 28, 1850.

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CHAPTER LXXIII.

Joint Resolution for the relief of the heirs of Robert Earl, deceased.

Whereas, Robert Earl emigrated to the State of Coahuila and Texas in the year 1831: and whereas, the said Robert Earl

was entitled under the colonization law then in force, to one league and labor of land, or any part thereof; and whereas, neither the widow nor heirs of the said Robert Earl have since received the said land to which the said Robert Earl was entitled; therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby required to issue to the heirs of Robert Earl, deceased, a certificate for one league and labor of land, to be located on any of the vacant and unappropriated lands of this State.

Sec. 2. Be it further enacted, That when said certificate is located and the land surveyed and the field-notes returned to the General Land Office, and payment of government dues in accordance with law, it is hereby made the duty of the Commissioner of the General Land Office to issue a patent thereon.

Sec. 3. Be it further enacted, That this joint resolution take effect and be in force from and after its passage.

Approved, January 28, 1850.

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#### CHAPTER LXXIV.

An act to declare John James Elliott the legitimate child of William Elliott and Polly Elliott, of the county of Rusk.

Section 1. Be it enacted by the Legislature of the State of Texas, That John James Elliott be, and he is hereby declared to be the legitimate son of William Elliott and Polly Elliott, of the county of Rusk, with full rights and qualifications to take property by inheritance or otherwise, from, by or through his said parents, or any other person, in the same manner as other children of his said parents begotten in lawful wedlock.

Sec. 3. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, January 28, 1850.

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#### CHAPTER LXXV.

An act to amend an act entitled "an act to incorporate the city of Nacogdoches," approved March 16th, 1848.

Section 1. Be it enacted by the Legislature of the State of Texas, That the second section of the above recited act be, and the

same is hereby amended so as to read as follows, to wit: The limits of said corporation shall be one square mile, of which the courthouse shall be the centre; the boundary lines of said corporation to be run and plainly marked by a competent surveyor, whom said corporation may employ for that purpose, and whose fees shall be the same as are provided for by law, to be paid out of any funds in the treasury of the corporation not otherwise appropriated.

Sec. 2. Be it further enacted, That the fourth section of said act shall be amended so as to read as follows: The election under this act shall be held on the first Mondays of April in each of every year; the first election after the passage of this act to be held under the direction of the Chief Justice of the county of Nacogdoches, or in case of his absence or inability to act, by any two County Commissioners, after giving ten days notice thereof; and thereafter said election shall be held under the direction of the Mayor, at least ten days prior to the expiration of his term of office, and that in case of death or resignation, the vacancy shall be filled by new elections.

Sec. 3. Be it further enacted, That all after the word "corporation," in the fifth line of the sixth section of the above recited act be, and the same is hereby repealed.

Sec. 4. Be it further enacted, That all laws and parts of laws conflicting with the provisions of this act be, and the same are hereby repealed, and that this act take effect and be in force from and after its passage.

Approved, January 28, 1850.

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## CHAPTER LXXVI.

### An act for the relief of A. Balleuill.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office of the State be, and he is hereby authorized and required to issue to A. Balleuill a certificate for six hundred and forty acres of land, to be located on any vacant and unappropriated lands within this State.

Sec. 2. Be it further enacted, That upon the return of the survey and field-notes under said certificate to the General Land Office, and after the payment of all government dues, it shall be the duty of the Commissioner of the General Land Office to issue



a patent thereon, in [the] same manner as provided [for] by law in other cases.

Sec. 3. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, January 28, 1850.

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## CHAPTER LXXVII.

Joint Resolution for the relief of the heirs of R. W. Balentine.

Whereas, satisfactory evidence has been received that R. W. Balentine fell in the massacre of the Alamo, on the 6th day of March, 1836, and that he was entitled to 640 acres of land as a donation, 1920 acres as a bounty, and 1476 as his head-right, and that he has never received the above amount of land, or any part thereof; therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue certificates for the above amount of lands, to the heirs or legal representatives of R. W. Balentine, and on return of field-notes and payment of government dues, patents to issue as in other cases provided by law, and that this act take effect and be in force from and after its passage.

Approved, January 28, 1850.

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## CHAPTER LXXVIII.

An act for the relief of George Washington Sheek.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to George Washington Sheek a certificate for three hundred and twenty acres of land.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, January 28, 1850.

## CHAPTER LXXIX.

## Joint Resolution for the relief of John Hobson.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to John Hobson a certificate for two-thirds of a league of land, to be located on any of the vacant and unappropriated lands of the State, and on the return of the field notes, and the payment of the government dues, to issue a patent as in other cases provided by law.

Sec. 2. Be it further resolved, That this joint resolution take effect and be in force from and after its passage.

Approved, January 29, 1850.

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CHAPTER LXXX.

## An act to incorporate the town of Tyler, in Smith county.

Section 1. Be it enacted by the Legislature of the State of Texas, That the citizens of the town of Tyler, in Smith county, be, and they are hereby declared a body politic and corporate, under the name and style of the corporation of the town of Tyler, and by that name shall have power to sue and be sued, plead and be impleaded, and to hold and dispose of real and personal property; provided such real property is situated within the limits of said corporation.

Sec. 2. Be it further enacted, That it shall be the duty of the citizens of said corporation to elect a Mayor, eight Aldermen, a Collector and a Constable; and a Treasurer and Secretary shall be selected by said Aldermen from their own body; the Treasurer and Collector being required to give bond with security, to be approved of by the presiding officer, for the faithful performance of their duties, and to make reports when required by the Mayor or board of Aldermen. And the Mayor shall have power when necessary to suppress riots and disturbances, and to call out the citizens of said corporation for the purpose of restoring order.

Sec. 3. Be it further enacted, That the first election shall be held under the direction of the Chief Justice of said county, after having given ten days notice thereof, and annually afterwards under the direction of the Mayor, at least ten days before the expiration of his term of office; and that in case of death or resignation, the vacancy or vacancies shall be filled by new elections, to be ordered by the Mayor; and in case the office of May-

or shall be vacant, then the Aldermen shall elect one of their own body to act as Mayor until the next annual election.

Sec. 4. Be it further enacted, That no person shall be eligible to any office under the provisions of this charter, who is not a citizen of this State, and a resident within the limits of the incorporation, nor shall any person have a right to vote for officers who is not a citizen and resides within its limits.

Sec. 5. Be it further enacted, That the Mayor and Board of Aldermen of said corporation shall have power to pass such rules and ordinances as may be necessary for the regulation of the police and the preservation of order within the corporation limits; to levy taxes for the removal of nuisances and keeping the streets in good order; and to prescribe penalties for the violation of the ordinances and by-laws of the corporation; provided, that in no case such penalty shall exceed one hundred dollars.

Sec. 6. Be it further enacted, That the limits of said corporation shall extend over one hundred acres of land in a square, laid off so as to leave the public square of said town of Tyler in the center of said corporation limits.

Sec. 7. Be it further enacted, That the Mayor, with a majority of said Aldermen, shall constitute a quorum for the transaction of business; and shall enact and enforce such rules and regulations as they may deem necessary for the government of said corporation; provided the same do not conflict with the constitution and laws of this State.

Approved, January 29, 1850.

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## CHAPTER LXXXI.

### Joint Resolution for the relief of Zebulon M. Porter.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue a certificate for three hundred and twenty acres of land to Zebulon M. Porter, and on the return of the field-notes and the payment of the government dues, to issue patent as in other cases provided by law.

Sec. 2. Be it further resolved, That this joint resolution take effect and be in force from and after its passage.

Approved, January 29, 1850.

## CHAPTER LXXXII.

## Joint Resolution for the relief of Samuel C. Douglass.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to Samuel C. Douglass a certificate for one league of land, to be located upon any of the vacant and unappropriated lands of this State, and on the return of the field notes and the payment of the government dues, to issue title as in other cases provided by law.

Sec. 2. Be it further resolved, That this joint resolution take effect and be in force from and after its passage.

Approved, January 29, 1850.

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## CHAPTER LXXXIII.

An act donating to John Neill and James O. Rice one league of land each, for being permanently disabled in the service of the Republic of Texas, and one league of land to the heirs of Hays Covington, who was killed in the service of the same.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to John Neill, James O. Rice, and the legal representatives of Hays Covington, deceased, a land certificate for one league of land each, which certificate may be located, surveyed and patented in accordance with the laws now in force regulating the same.

Sec. 2. That this act shall be in force and take effect from and after its passage.

Approved, Jan. 31, 1850.

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## CHAPTER LXXXIV.

## Joint Resolution for the relief of John W. Little.

Be it resolved by the Legislature of the State of Texas, That the Commissioner of the General Land Office be authorized and required to issue a certificate to John W. Little for six hundred and forty acres of land, which certificate may be loca-

ted on any of the vacant and unappropriated lands of the State of Texas, and that this joint resolution take effect from its passage.

Approved, Feb. 1, 1850.

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CHAPTER LXXXV.

An act for the relief of Cain F. Brush, a soldier in the army of the Republic of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized to issue to Cain F. Brush a certificate for one-third of a league of land, as his head-right, to which said Brush was entitled by virtue of his emigration to the country previous to the first day of August, 1836.

Sec. 2. That the said certificate may be located, surveyed and patented in accordance with the laws regulating the same, on claims of a like character, and that this act take effect and be in force from and after its passage.

Approved, Feb. 1, 1850.

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CHAPTER LXXXVI.

An act for the relief of the heirs of Patsey Lewis, deceased.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to the heirs of Patsey Lewis, deceased, upon their paying the usual fees and government dues, a patent for thirty-five hundred and sixty-two acres of land, that being the residue of a league to which said Patsey Lewis in her life time was entitled, and that this act take effect from its passage.

Approved, Feb. 1, 1850.

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CHAPTER LXXXVII.

An act to authorize and require the Commissioner of the General Land Office to issue certificates to Wiley Marshall and Edward H. Pitts for three hundred and twenty acres of land.

Whereas, Wiley Marshall and Edward H. Pitts emigrated to the Republic of Texas previous to the first day of January,

one thousand eight hundred and forty-two, were single men, and over the age of seventeen years, and have continued to reside in Texas up to this time, and have never received certificates for the headrights, to which they were entitled under the laws of said Republic; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to said Wiley Marshall and Edward H. Pitts a certificate for three hundred and twenty acres of land each, which may be located upon any of the vacant and unappropriated land of this State, and this act shall be in force from and after its passage.

Approved, Feb. 1, 1850.

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#### CHAPTER LXXXVIII.

An act authorizing the Galveston City Company to change the plan of a certain block of lots in the City of Galveston.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Directors of the Galveston City Company be, and they are in their corporate capacity hereby authorized to change the plan of block number three hundred and nineteen, as marked on the map of said city of Galveston, so that the lots in said block may front eastwardly and westwardly, and that the alley through the centre of said block be run north and south, instead of east and west, as now marked out on said map.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, Feb. 1, 1850.

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#### CHAPTER LXXXIX.

Joint Resolution for the relief of Charles Morgan and Robert Rose.

Whereas, in the year 1840, the Secretary of the Treasury of the Republic of Texas, in order to extend greater facility to the holders of the liabilities of Texas, for funding the same in the Public Debt of the Republic, did authorize Alden M. Jackson, Collector of customs at Galveston, to receive and cancel such promissory notes, as should be presented, to whom Charles

Morgan and Robert Rose, surrendered their promissory notes which were canceled by the said Jackson; and, whereas, the stock to which they were entitled has never issued, for the reason that said notes were not received at the Treasury Department, until after the period allowed for funding the same had expired; and whereas, the Comptroller and Auditor, acting under the provisions of an act, approved March 20, 1848, issued certificates to the said Charles Morgan and Robert Rose, with the following indorsement on the same: "the liabilities for which this certificate is given were cut in two, and the word 'canceled' written obliquely across the face; consequently, it will require a special action of the Legislature to place it on the same footing with other certificates issued for a similar character of liabilities;" which said certificate renders the acknowledgement of this indebtedness, of no value to the said Charles Morgan and Robert Rose; therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That the Auditor and Comptroller of Public Accounts, be, and they are hereby authorized and required, on the presentation of certificates number seven hundred and fifty-six, and seven hundred and fifty-seven, issued to Charles Morgan, and dated, October 3, 1849; and certificate, number seven hundred and fifty-eight, issued to Robert Rose, and dated, October 3, 1849, to cancel the same, and issue in lieu thereof, certificates as in other cases of liabilities of a similar class.

Sec. 2. Be it further resolved, That this joint resolution take effect and be in force from and after its passage.

Approved, February 1, 1850.

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#### CHAPTER XC.

An act for the relief of William C. Sparks, assignee of Samuel W. Willis.

Section 1. Be it enacted by the Legislature of the State of Texas. That the Commissioner of the General Land Office, be, and he is hereby authorized and required, to issue a patent to William C. Sparks, assignee of Samuel W. Willis, upon certificate number one hundred and eight-four, for six hundred and forty acres of land, issued by the board of Land Commissioners of Nacogdoches county.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.  
Approved, February 1, 1850.

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#### CHAPTER XCI.

An act for the relief of Francis L. Merriweather and Peter P. Harding.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office, be, and he is hereby authorized and required, to issue to Francis L. Merriweather and P. P. Harding, each, an unconditional certificate for three hundred and twenty acres of land, which certificates may be located on any of the vacant and unappropriated lands in this State.

Sec. 2. Be it further enacted, That after the survey shall have been made by virtue of said certificates, and the field notes returned in accordance with law; the said Commissioner of the General Land Office, is hereby authorized and required to issue patents thereon.

Approved, February 1, 1850.

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#### CHAPTER XCII.

An act for the relief of Thomas Garner, assignee of Hiram H. Milleions.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office, be, and he is hereby authorized and required, to issue a land certificate for one league and labor of land, first class, to Thomas Garner, assignee of Hiram H. Milleions, which may be located on any of the vacant and unappropriated lands in this State; and on return of the field notes of the survey, and payment of the government dues, to issue patent as in other cases provided by law.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, February 1, 1850.



CHAPTER XCIII.

Joint Resolution authorizing the Comptroller to make a final settlement with the late Public Printer, for printing the Laws and Journals of the second Legislature.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Comptroller, be, and he is hereby authorized and required, to settle and close the accounts of the Public Printer of the second Legislature, for the printing of the General Laws and Journals, allowing one-third of a cent per page for an edition of five hundred copies, of seventeen hundred and ninety-one pages of the Journals of the Senate and House; and for an edition of twenty-five hundred copies, of five hundred and seven pages of the General Laws; deducting therefrom the amount heretofore paid for the same, and if any balance shall be found due said publishers, the Comptroller is hereby authorized to draw on the Treasurer for the same.

Sec. 2. Be it further resolved, That this joint resolution take effect and be in force from and after its passage.

Approved, February 2, 1850.

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CHAPTER XCIV.

Joint Resolution authorizing and requiring the Commissioner of the General Land Office, to issue a certificate to J. H. Singleton, for one-third of a league of land.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Commissioner of the General Land Office, be, and he is hereby authorized and required, to issue a certificate for one-third of a league of land, first class, to J. H. Singleton, subject to the same liabilities as to government dues, as other certificates of the same class; and that this act take effect from and after its passage.

Approved, February 2, 1850.

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CHAPTER XCV.

Joint Resolution for the relief of the Estate of Lieutenant Lansing, deceased.

Whereas, an accusation has been preferred against J. Platt Lansing, deceased, a Lieutenant in the Navy of the late Republic

of Texas, of having been a defaulter in the small arms of the schooner Bernard; and in consequence thereof, the sum of eleven hundred and twenty-five dollars, was charged to his account; and whereas, it appears that such accusation or charge was unjustly made and is without foundation, and by the evidence of Commodore E. W. Moore, late commander of said Navy, the defalcation aforesaid, was duly reported to him by said Lansing; therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That said accusation be withdrawn, and that the Adjutant General of the State, be, and he is hereby authorized and required, to make an entry of the same on the account of said Lansing, in the books of the late Auditor of the Republic of Texas, and to credit said account [with] the amount of eleven hundred and twenty-five dollars, improperly charged therein, to cover said defalcation; and that the Auditor and Comptroller, be required to audit the account due said Lansing at the time of his decease, to be placed upon the same footing of other claims against the late Republic of Texas.

Approved, February 2, 1850.

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#### CHAPTER XCVI.

An act for the relief of Daniel Fuller.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office, be, and he is hereby authorized, to issue a certificate to Daniel Fuller, for one league and one labor of land, as his headright, to which said Fuller is entitled by virtue of his emigration to Texas, previous to the Declaration of Independence with his family.

Sec. 2. That said certificate may be located, surveyed and patented, in obedience to the laws regulating the same, on first class claims; and that this act take effect from and after its passage.

Approved, February 2, 1850.

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#### CHAPTER XCVII.

An act for the relief of John Jackson, of Dallas county.

Section 1. Be it enacted by the Legislature of the State of Texas, That John Jackson of Dallas county, be, and he is here-

by entitled to the same quantity of land, that other colonists are, and upon the same terms and conditions, except as to the time of his emigration; and that this act take effect from and after its passage.

Approved, February 2, 1850.

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CHAPTER XCVIII.

An act for the relief of the Heirs at law of Joseph Thompson, deceased.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office of the State, be, and he is hereby authorized and required, to issue to the heirs at law, of Joseph Thompson, deceased, a certificate for one league and labor of land, to be located on any of the vacant and unappropriated public lands within this State.

Sec. 2. Be it further enacted, That upon the return of the field notes and survey under said certificate, to the General Land Office, and the payment of all government dues thereon, it shall be the duty of said Commissioner to issue a patent in the same manner, as provided for by law, in other cases.

Sec. 3. Be it further enacted. That this act take effect and be in force from and after its passage.

Approved, February 2, 1850.

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CHAPTER XCIX.

An act to incorporate the Town of Rusk.

Section 1. Be it enacted by the Legislature of the State of Texas, That the citizens of the town of Rusk, be, and they are hereby declared a body corporate and politic, under the name and style of the corporation of the town of Rusk; and by that name may sue and be sued; implead and be impleaded; and may hold and dispose of real and personal property, within the limits of said corporation.

Sec. 2. Be it further enacted, That it shall be the duty of said citizens, to elect a Mayor, five Aldermen, a Treasurer, a Secretary, a Collector and a Constable; the Treasurer and Collector shall make reports, when required by the Mayor's warrant, and shall give bond in such a sum as the said Mayor and Aldermen

may think proper, payable to the Mayor and Aldermen of the corporation of the town of Rusk, and their successors in office; and the Constable shall perform all the duties required of him by the by-laws of said corporation, and shall give bond as required of said Treasurer and Collector.

Sec. 3. Be it further enacted, That the said Mayor, when he shall deem it necessary to suppress riots and disturbances, may call out the posse comitatus of the said town, for the purpose of restoring order.

Sec. 4. Be it further enacted, That no person shall be eligible to hold any office in said corporation, or to vote for the officers thereof, unless he be a qualified elector as required by the law regulating elections, or shall be a free or householder in said town, and shall actually reside within the limits of said corporation.

Sec. 5. Be it further enacted, That the first election shall be held for said officers by the Chief Justice of the county of Cherokee, after having given ten days notice thereof, at the court-house door, and at four of the corner houses in said town, and shall be held annually thereafter by the Mayor, giving at least ten days notice as aforesaid.

Sec. 6. Be it further enacted, That in case of the death or resignation of either the Mayor or any of the Aldermen, the vacancy shall be filled by election as aforesaid, to be ordered by the Aldermen or a majority of them; all of whom shall hold their offices until their successors are duly qualified.

Sec. 7. Be it further enacted, That it shall be the duty of the Aldermen to pass such rules and ordinances from time to time, for the regulation of the police and preservation of good order within the corporation limits, as they may think necessary; to levy taxes for the removal of nuisances, and for keeping the streets of said town in good repair; and to prescribe the penalties for all offences, against the by-laws of said corporation; provided however, that no tax shall be laid, unless by the consent of two thirds of the Aldermen present, and be assessed according to the valuation of property.

Sec. 8. Be it further enacted, That when a meeting is called for the purpose of assessing taxes, the object must be stated in the notice therefor; and said taxes shall not exceed one-half of one per cent in any one year.

Sec. 9. Be it further enacted, That the said corporation of the town of Rusk, shall extend half a mile from each boundary line of the public square in said town.

Sec. 10. Be it further enacted, That said corporation shall cause a copy of all their by-laws to be kept in a book for that purpose, which by-laws shall be written in a plain and legible style; and shall be subject to the inspection of the citizens of said town whenever required.

Sec. 11. Be it further enacted, That the said Chief Justice of Cherokee county, shall order the election as required in the fifth section of this act, as soon as he shall be furnished with an approved copy of the same.

Sec. 12. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, February 2, 1850.

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## CHAPTER C.

### An act for the relief of James R. Pace.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Treasurer of the State of Texas, be, and he is hereby authorized and required, to pay James R. Pace, the sum of one hundred and twenty dollars, out of any money not otherwise appropriated; and that this act take effect and be in force from and after its passage.

Approved, February 2, 1850.

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## CHAPTER CI.

### An act to authorize Mrs. Julia Stanton to take the guardianship of her son William Ewing Stanton.

Section 1. Be it enacted by the Legislature of the State of Texas, That Mrs. Julia Stanton, be, and she is hereby authorized to take the guardianship of her minor son, William Ewing Stanton, on filing in the office of the clerk of the county court of the county in which she resides, a bond with two good and sufficient securities, in such sum as such county court shall direct; conditioned, for the faithful performance of her duties as guardian; and that this act take effect immediately.

Approved, February 5, 1850.

## CHAPTER CII.

An act to authorize the Commissioner of the General Land Office to issue a headright certificate to Guy M. Bryan.

Whereas, Guy M. Bryan emigrated to Texas, some time in the year 1831, and arrived at the age of seventeen years, previous to the first of January one thousand eight hundred and forty, whereby he was entitled to a headright of three hundred and twenty acres of land, under the laws of the Republic of Texas, for which he has never received any certificate; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby required to issue to said Guy M. Bryan, a certificate for three hundred and twenty acres of land; which may be located on any vacant or unappropriated land in this State; and this act shall take effect from its passage.

Approved, February 5, 1850.

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CHAPTER CIII.

Joint Resolution for the relief of Jacob Allbright.

Whereas, Jacob Allbright, Assessor and Collector of Taxes of Houston county, was robbed on the night of the 4th of January last, 1849, of one thousand dollars or upwards, of the public moneys belonging to the State of Texas, and of the county taxes, collected for the county of Houston; therefore,

Resolved by the Legislature of the State of Texas, That the State relinquishes to Jacob Allbright, Assessor and Collector of Taxes of the county of Houston, for the year 1849, the sum of six hundred and sixty-six dollars and sixty-six cents, it being the amount of taxes collected by him for the State, and of which he was robbed on the night of the fourth of January, 1849; and the said Allbright, and his securities are hereby exonerated from the payment of the said sum, of six hundred and sixty-six dollars and sixty-six cents, and the Comptroller of public accounts is hereby authorized, to enter a credit in favor of the said Jacob Allbright, for the aforesaid sum of money, by virtue of this Joint Resolution; provided, that the ten per cent reserved by the constitution for educational purposes, be, and the same is hereby required, to be paid into the treasury; and that this joint resolution take effect and be in force from and after its passage.

Approved, February 5, 1850.

CHAPTER CIV.

An act for the relief of Frederick Scranton.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office, be, and he is hereby authorized and required, to issue to Frederick Scranton, a certificate for seventeen and two thirds labors of land, as an augmentation to which he was entitled by virtue of his marriage, in the year 1839, under the laws then in force regulating the same.

Sec. 2. That said certificate may be located, surveyed and patented in obedience to the laws regulating first class claims to land; and that this act be in force and take effect from and after its passage.

Approved, February 5, 1850.

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CHAPTER CV.

Joint Resolution for the relief of Christopher Troute and R. M. Davis.

Whereas, Christopher Troute and R. M. Davis, have been wounded in fighting the battles of Texas, and thereby permanently disabled; therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required, to issue to Christopher Troute and R. M. Davis, a certificate for one league of land, each; to be located on any of the vacant and unappropriated lands in this State, and upon the return of the field-notes, to issue patents for the same, as in other cases provided by law.

Sec. 2. Be it further resolved, That this joint resolution take effect and be in force from and after its passage.

Approved, February 5, 1850.

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CHAPTER CVI.

An act for the relief of Jonathan Burleson.

Whereas, Jonathan Burleson settled with his family in Texas previous to the revolution thereof, and was thereby entitled to one league and labor of land, of which three fourths of a

league were granted to him under Austin and Williams, through their Commissioner, Robert Peebles, on the sixteenth day of February, 1836; and whereas, said title is considered, void by law, and therefore conveying no right to said Burleson, who has paid all dues and taxes on said lands granted to him as aforesaid; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office, be, and he is hereby authorized and required, to issue to Jonathan Burleson, a patent for three fourths of one league of land; the same known on the map of the land district of Bastrop, as survey number twelve, and granted to the said Jonathan Burleson by Robert Peebles, Commissioner of Austin and Williams, on the sixteenth day of February, in the year eighteen hundred and thirty-six.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, February 5, 1850.

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#### CHAPTER CVII.

##### Joint Resolution for the relief of William R. Baker.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required, to issue a certificate for one third of a league of land, to William R. Baker, assignee of Charles Irwin, and on the return of the field-notes and the payment of all government dues, to issue patent for the same, as in other cases provided for by law.

Sec. 2. Be it further resolved, That this joint resolution take effect and be in force from and after its passage.

Approved, February 5th, 1850.

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#### CHAPTER CVIII.

Joint resolution granting the Hon. Fielding Jones, Judge of the Tenth Judicial District, leave of absence from this State.

Section 1. Be it resolved by the Legislature of the State of Texas, That Fielding Jones, Judge of the Tenth Judicial Dis-



trict, shall have leave of absence from this State, from the fifteenth day of May, until the first day of September, in the year eighteen hundred and fifty.

Approved, February 5, 1850.

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CHAPTER CIX.

An act to incorporate Chappell Hill College.

Section 1. Be it enacted by the Legislature of the State of Texas, That an institution of learning is established at Dangerfield, in the county of Titus; it shall be called Chappel Hill College, and shall be under the control of the Marshall Presbytery of the Cumberland Presbyterian Church.

Sec. 2. There shall be thirteen Trustees, whose duty it shall be to take charge of the interests of the institution, any five of whom, shall constitute a quorum to do business.

Sec. 3. James McReynolds, Mathias Ward, A. H. Lattimer, Allen Urguehart, Gen. Record, Thomas Rogers, Pinckney Hill, John Ware, Charles Lewis, William C. Lee, M. Wood, D. L. Rowe and William C. Batt, shall be the first board of Trustees.

Sec. 4. The Trustees aforesaid, and their successors in office, shall be a body politic and corporate in deed and in law, by the name of the Trustees of Chappel Hill College; and by that name, they and their successors, may and shall have perpetual succession, and be able and capable in law, to have, receive and enjoy to them and their successors, lands, tenements and hereditaments, of any kind, in fee or for life, or for years, and personal property of any kind whatsoever; and also, all sums of money, which may be given, granted or bequeathed to them, for the purpose of promoting the interest of the said College; provided, the amount of property owned by said corporation, shall not at any time exceed two hundred thousand dollars.

Sec. 5. There shall be a stated meeting of the board of Trustees, in each year at the time of conferring degrees, and that the President of said College, shall have full power to call an occasional meeting of the board of Trustees, or a quorum of the same, whenever it shall appear to him necessary.

Sec. 6. The Trustees of said College, shall and may have a common seal for the business of themselves, and their successors, with liberty to change and alter the same as they shall think proper; and that by their aforesaid name, they and their successors.

shall and may be able to sue and be sued; plead and be impleaded; answer and be answered; defend and be defended; in all courts of law and equity, in this State; and to grant, bargain and sell, or assign any lands, tenements, goods or chattles, now belonging to said College, or that may hereafter belong to the same; to construct all the necessary buildings for said institution, to establish a preparatory department and College proper, as well as such other dependent structures as they shall deem necessary; to have the management of the finances; the privilege of electing their own officers, of appointing all necessary committees, and to act and do all things whatsoever, for the benefit of said institution, in as ample a manner as any person or body politic or corporate, can or may do by law.

Sec. 7. The said Trustees shall have the power of framing and enacting all such ordinances and by-laws, as shall appear to them necessary for the good government of the said College, and of their own proceedings; provided, the same shall not be repugnant to the constitution and laws of the State of Texas.

Sec. 8. The head of such College shall be styled the President, and the instructors thereof, the Professors; and the President and Professors, or a majority of them, the Faculty of Chappel Hill College; which Faculty shall have the power of prescribing the course of studies to be pursued by the students; of enforcing the ordinances and by-laws adopted by the Trustees for the government of the students, by rewarding and censuring them, and finally by suspending such of them as after repeated admonitions, shall continue disobedient or refractory, until a determination of a quorum of Trustees can be had; but it shall be only in the power of a quorum of Trustees to expel any student or students, of the said College.

Sec. 9. The Trustees shall have full power by the President and Professors of the said College, to grant or confer such degree or degrees, in the arts and sciences, to any of the students of the said College, or persons by them thought worthy, as are usually granted or conferred in other Colleges; and to give diplomas or certificates thereof, signed by them and scaled with the common seal of the Trustees of the College, to authenticate and perpetuate the memory of such graduations.

Sec. 10. When any vacancy shall occur in the board of Trustees, either by death, resignation or otherwise, such vacancy shall be filled by the Marshall Presbytery of the Cumberland Presbyterian Church.

Sec. 11. The President, Professors and other officers, shall be

chosen by the board of Trustees, subject to the approval of the Marshall Presbytery of the Cumberland Presbyterian Church.

Sec. 12. Whenever a vacancy shall occur in the Presidency or any of the Professorships of the College, the said Presbytery shall have the power to fill such vacancy.

Sec. 13. The Presbytery shall have the power, of fixing the salaries of all the officers connected with the College, and of removing any of them for neglect or misconduct in office.

Sec. 14. That in the institution hereby incorporated, the students of all religious denominations shall enjoy equal advantages.

Sec. 15. The said board of Trustees shall at the close of each Collegiate year, make a full report of their proceedings and the condition of said College and the preparatory departments thereof, to the said Presbytery; and that the said Presbytery shall have and exercise general supervision and control over the said board of Trustees; and that the said Presbytery, shall have and exercise full power to remove any member of said board of Trustees; and that any and all vacancies in said board of Trustees, caused by such removal, shall be filled as herein provided.

Sec. 16. In pleading this act or a right derived therefrom, it shall be sufficient to refer to the same by its title, and the day of its passage; and the court shall thereupon take judicial notice thereof.

Approved, Februar 7, 1850.

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## CHAPTER CX.

An act for the relief of David Lane, the heirs of Henry L. Lane, deceased, and Wesley Byers.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue a patent to David Lane for one league and labor of land, first class certificate, issued by the board of land commissioners of Red River county, on the 13th February, 1838; also a patent to the heirs of Henry L. Lane, deceased, for one-third of a league of land, first class certificate, issued to said heirs by the board of land commissioners of Red River county, on the 14th day of February, 1838; also a patent to Wesley Byers for one league and labor of land, on first class certificate, No. 259, issued to said Byers by the board of land commissioners.

Sec. 2. That the said David Lane, the heirs of the said Henry L. Lane, and Wesley Byers shall be required to pay the customary dues and fees of office, as charged on first class certificates, and that this act be in force from its passage.

Approved, February 7, 1850.

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## CHAPTER CXI.

An act to incorporate the Galveston Lodge, Number Three, of the Independent Order of Odd Fellows.

Section 1. Be it enacted by the Legislature of the State of Texas, That the officers and members of the Galveston Lodge, Number Three, of the Independent order of Odd Fellows, and their successors shall be, and they are hereby declared to be a community corporation and body politic by the name and style of the Galveston Lodge Number Three, of the Independent Order of Odd Fellows, and by that name they and their successors shall and may at all times hereafter, be capable in law to have, receive and retain any estate, real or personal, by gift, purchase, devise, or bequest, and such estate at their pleasure to transfer and dispose of in such manner as they may think proper; provided, that said corporation shall not at any time hold or possess estate exceeding in value the sum of twenty thousand dollars, nor more than five acres of land; Provided, however, that if any real estate exceeding five acres shall at any time accrue to said corporation, they shall be allowed the time of one year to sell and dispose of the same.

Sec. 2. The corporation, by the name and style aforesaid, shall be capable in law to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in all or any courts of this State, and before all or any judge, officers and persons whatsoever, in all and singular actions, matters and things whatsoever.

Sec. 3. The said corporation may have a common seal for their use, and the same at their will and pleasure to change, alter and make anew from time to time as they may think best, and shall in general have and exercise all such rights, privileges and immunities as by law are incident to, and necessary to corporations of a similar character, and that this act shall take effect from its passage.

Approved, February 7, 1850.

CHAPTER CXII.

An act for the relief of Leoin S. Sargeant.

Sec. 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office, be, and he is hereby authorized to issue a head-right certificate for six hundred and forty acres of land to Leoin S. Sargeant, and that this act take effect from and after its passage.

Approved, February 7, 1850.

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CHAPTER CXIII.

An act for the relief of the heirs and legal representatives of John C. Ogden.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby required to issue a head-right certificate to the heirs or legal representatives of John C. Ogden, deceased, a private in the army of Texas, for one-third of a league of land, which may be located upon any vacant and unappropriated lands of this State; and that the Commissioner of the General Land Office be required to issue a patent for the same according to the requirements of law; and that this act be in force and take effect from and after its passage.

Approved, February 7, 1850.

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CHAPTER CXIV.

An act requiring the Commissioners appointed by an act entitled an act creating the county of Cherokee, approved April 11, 1846, to deliver up certain documents and moneys therein mentioned.

Section 1. Be it enacted by the Legislature of the State of Texas, That the commissioners appointed to locate the county seat of Cherokee county by the above recited act, approved April 11, 1846, be, and they are hereby required to deliver up to the Chief Justice and county commissioners of said county, at the February term of the county court in the year 1850, or as soon thereafter as practicable, all the records, papers, documents and

moneys in their hands, relative to lots in the town of Rusk, in Cherokee county.

Sec. 2. Be it further enacted, That said Chief Justice, county commissioners, and county clerk of said county of Cherokee, or their successors in office, shall proceed to sell the remaining lots in said town of Rusk, and to do and perform whatever may be necessary in finally settling the outstanding business of said town of Rusk, for which services the said Chief Justice, county commissioners and county clerk shall be entitled to the same fees as in other similar cases are established by law.

Sec. 3. Be it further enacted, That the Chief Justice shall have power to institute suit on all notes heretofore drawn, and payable to said commissioners for lots in said town of Rusk, as fully as though such notes had been executed to him, and that this act take effect from its passage.

Approved, February 8, 1850.

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#### CHAPTER CXV.

An act for the relief of Charles F. Stanly.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office, be, and he is hereby authorized to issue a certificate to Charles F. Stanly for one league and one labor of land, as a head-right to which said Stanly is entitled by virtue of his emigration to the Republic of Texas, with his family, previous to the first day of August, A. D. 1836.

Sec. 2. That said certificate may be located, surveyed and patented according to the laws regulating first class claims for head-rights to lands; and that this act take effect and be in force from and after its passage.

Approved, February 8, 1850.

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#### CHAPTER CXVI.

An act for the relief of Greenberry Logan and Joseph Taylor.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to Greenberry Logan, as an augmentation under the land law of 1837, a certi-

ificate for three-fourths of one league and one labor of land, and to Joseph Taylor, who was permanently disabled in the service of Texas, a certificate for one league of land.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, February 8, 1850.

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## CHAPTER CXVII.

### Joint Resolution for the relief of John P. Rosier.

Whereas, John P. Rosier joined the army and performed military service in the Republic of Texas prior to the first day of August, 1836, and has received an honorable discharge from the same; and whereas, he has not received the quantity of land to which he is by law entitled; therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to John P. Rosier a certificate for eight hundred and thirty-six acres of land, to be located on any of the vacant and unappropriated lands of this State; and on the return of the field notes, to issue patent for the same, as in other cases provided by law.

Sec. 2. Be it further enacted, That this joint resolution take effect and be in force from and after its passage.

Approved, February 8, 1850.

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## CHAPTER CXVIII.

### An act for the relief of Martha McBride and Margaret Garnett.

Whereas, Martha Collum, now Martha McBride, and Margaret Jones, now Margaret Garnett, were resident citizens of Texas at the date of the declaration of Independence, and the heads of families of children: and whereas, they have never received the quantity of land to which they are entitled; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office of the State be, and he is hereby authorized and required to issue to for one league and labor of land each, to be located on any of the

the said Martha McBride and Margaret Garnett, a land certificate unappropriated public domain, and patented in the same manner as other first class certificates.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, February 8, 1850.

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## CHAPTER CXIX.

An act for the relief of Melville Langham.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to Melville Langham a certificate for two-thirds of a league and labor of land, which may be located as now provided by law.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, February 8, 1850.

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## CHAPTER CXX.

An act for the relief of William McMasters, late Sheriff of Brazoria county.

Section 1. Be it enacted by the Legislature of the State of Texas, That William McMasters, late Sheriff of Brazoria county, be allowed the term of one, two, three and four years for the payment of the amount due by him to the late Republic of Texas, on his giving satisfactory security to the Comptroller of the State for the payment thereof, in equal annual instalments, together with interest thereon till paid; Provided, that said McMasters shall render to the Comptroller a true statement under oath, of the amount of his indebtedness to said Republic of Texas, and make a settlement of his said indebtedness with the Comptroller on or before the first day of August, one thousand eight hundred and fifty; and shall pay all the costs of the suit that has been commenced against him.

Approved, February 5, 1850.



CHAPTER CXXI.

An act to incorporate the Lafayette Academy, in the City and County of Matagorda.

Section 1. Be it enacted by the Legislature of the State of Texas, That Albert C. Horton, John D. Newell, Felix M. Gibson, John W. McCalmey, and their associates, never to exceed the number of twelve in all, and their successors in office be, and they are hereby constituted a body politic and corporate, by the name and style of the President and Trustees of the Lafayette Academy, in which name they may sue and be sued, plead and be impleaded, answer and be answered, in any court of justice, and to hold, control and dispose of property, real and personal, to any amount not exceeding fifty thousand dollars, for the use and benefit of said Academy.

Sec. 2. Be it further enacted, That the members of said corporation may enact such by-laws and elect such officers as to them may seem fit, and as may be necessary to carry on the business of said corporation, and they shall have full power and authority to establish rules for the said Academy, to appoint and remove or suspend professors and teachers, and that all by-laws enacted by said corporation shall be, to all intents and purposes, binding on the corporation and its members, and of full force and validity for the government of the institution, and shall be altered and amended only by the vote of a majority of the whole Board of Trustees.

Sec. 3. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, February 8, 1850.

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CHAPTER CXXII.

An act for the relief of the heirs and legal representatives of William Wallace, who fell at Goliad, and Nathaniel Dennis, who fell in the service of Texas in 1836.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to the heirs and legal representaives of William Wallace, who fell at Goliad, a certificate for one-third of a league of land; also, a certificate for one-third of a league of land to the heirs and legal representa-

tives of Nathaniel Dennis, who fell in the service of Texas in 1836, which may be located on any of the public domain of the State of Texas not otherwise appropriated, and a patent shall issue on the same as in other cases.

Sec. 2. Be it further enacted, That this act shall take effect and be in force from and after its passage.

Approved, February 8, 1850.

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### CHAPTER CXXIII.

#### Joint Resolution for the relief of Samuel G. Norvell and William A. A. Wallace.

Whereas, Samuel G. Norvell and William A. A. Wallace were members of Captain John C. Hays' company for the protection of the frontier, and while serving in said company were taken prisoners and carried to Mexico, and their claims for services have never been audited or paid; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the Auditor and Comptroller be, and they are hereby required to audit the claims of Samuel G. Norvell and of William A. A. Wallace, for services and losses while they were members of said company and prisoners in Mexico, amounting to the sum of six hundred and fifty dollars for Samuel G. Norvell, and four hundred and eighty-seven dollars to William A. A. Wallace, and issue to them certificates therefor, in accordance with the provisions of an act to provide for ascertaining the debt of the late Republic of Texas, approved March 20th, 1848, and that this joint resolution shall take effect from and after its passage.

Approved, February 8, 1850.

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### CHAPTER CXXIV.

#### Joint Resolution for the relief of A. H. Cooke and James Smith.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Treasurer be, and he is hereby authorized and required to pay A. H. Cooke the sum of twenty dollars, and James Smith the sum of one hundred and forty two dollars and thirty cents out of any money in the treasury on special deposit,

belonging to the estate of Richard Vaughan, dec'd, for the payment of his funeral expenses.

Sec. 2. Resolved, That this joint resolution take effect from and after its passage.

Approved, February 8, 1850.

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CHAPTER CXXV.

An act to authorize Bartlett Simms to raise a location therein named, and to locate the same on any vacant land.

Section 1. Be it enacted by the Legislature of the State of Texas, That Bartlett Simms be, and he is hereby authorized to raise so much of a survey made for said Simms, lying in Bastrop county, as conflicts with a survey made for Jose Antonio Navarro.

Sec. 2. That the Commissioner of the General Land Office is hereby authorized to issue a certificate for the number of acres covered by said conflict, and that it may be located, surveyed and patented on any of the vacant and unappropriated lands of this State; provided, that this act shall not be construed as a legislative expression of opinion in regard to the claim of the said Jose Antonio Navarro.

Approved, Feb. 8, 1850.

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CHAPTER CXXVI.

An act for the relief of William W. Wallace.

Section 1. Be it enacted by the Legislature of the State of Texas. That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to William W. Wallace a certificate for one league and one labor of land, and that said certificate may be located, surveyed and patented according to the laws regulating the same on first class claims, as issued by the Republic of Texas; and that this act be in force and take effect from and after its passage.

Approved, February 8, 1850.

## CHAPTER CXXVII.

An act for the relief of the heirs of Tilford Baker.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby required to issue a head right certificate for three hundred and twenty acres of land to the heirs of Tilford Baker, deceased—that Johnson Wren be authorized to receive and locate said certificate for the benefit of said heirs, and that this act take effect from and after its passage.

Approved, February 8, 1850.

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## CHAPTER CXXVIII.

An act for the relief of the heirs at law of Jesse Bledsoe.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue a certificate for one third of a league of land to the heirs at law of Jesse Bledsoe, deceased, the same to be located on any of the vacant and unappropriated public domain of this State.

Sec. 2. Be it further enacted, That upon the location, survey and return of said certificate, it shall be the duty of the Commissioner aforesaid to issue a patent thereon, upon the same terms and conditions as required by law in other cases.

Sec. 3. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, February 9, 1850.

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## CHAPTER CXXIX.

An act for the relief of the heirs and legal representatives of Charles Martin, deceased.

Whereas, Charles Martin, at the time of his death in the year 1835, was a citizen of the municipality of Washington, now comprised in part of the county of Montgomery, in the State of Texas; and whereas, the heirs or legal representatives of said Martin have never received title to the lands to which he was entitled as a citizen of Texas prior to the declaration of independence; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to the heirs or

legal representatives of said Charles Martin, deceased, a certificate for one-third of a league of land, upon such heir or legal representative producing sufficient proof of his representative capacity; which certificate may be located on any of the vacant and unappropriated domain of the State, and a patent shall issue thereon in obedience to the laws regulating the same on first class claims.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, February 9, 1850.

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## CHAPTER CXXX.

### An act to incorporate the Town of Livingston.

Section 1. Be it enacted by the Legislature of the State of Texas, That the citizens of the town of Livingston, be, and they are hereby declared a body corporate, by the name and style of the corporation of the town of Livingston: and by that name, may sue and be sued; plead and be impleaded; and may hold, and dispose of real and personal estate.

Sec. 2. Be it further enacted, That the limits of said corporation, shall be one mile square, of which the courthouse of the county of Polk, in the said town of Livingston, shall be the centre.

Sc. 3. Be it further enacted, That an election for Mayor, five Aldermen, a Treasurer, a Recorder and a Constable, shall be held as soon as practicable, after the passage of this act, by the Chief Justice, or one of the Commissioners of Polk county, according to the laws governing elections generally; and annually thereafter, for a similar purpose, an election shall be conducted by the Mayor, or a majority of the Aldermen, acting at the time of such election; and the persons elected shall continue in office one year, or until their successors are duly qualified; and the annual election for Mayor and Aldermen shall be held at such place in the town of Livingston, as may be designated by the Board for the convenience of the people.

Sec. 4. Be it further enacted, That whenever a vacancy shall occur in the office of Mayor, a majority of the Aldermen acting, shall order and conduct an election, to fill such vacancy; and the persons so elected shall hold his office until the next regular election, or until his successor be duly qualified, and in case of the death, resignation or removal of any Alderman, Treasurer

or Constable, the Mayor shall order an election, under such rules and regulations as may be prescribed by the board, to fill such vacancy.

Sec. 5. Be it further enacted, That no person shall be eligible to the office of Mayor, Aldermen, Treasurer or Constable, unless such person be a citizen of said town.

Sec. 6. Be it further enacted, That the Mayor shall be President of the board of Aldermen, that three of the members of said board shall constitute a quorum, to transact business; and that said board shall enact such by-laws for the government of said town, not inconsistent with the constitution and laws of the State, as may be deemed proper; and may impose fines for the infraction or disobedience of the same, not exceeding twenty dollars for such offence.

Sec. 7. Be it further enacted, That the board of Aldermen shall have, and exercise control over the public square, and streets of said town, and may compel all free male citizens, ministers of the gospel excepted, over the age of seventeen years and under that of forty-five, to work on the same; provided, that such person shall not be required to work more than six days in any one year, and shall be exempt from other road duty in said county; and the board may impose such fines on defaulters as they may deem necessary, in which they shall be governed by the laws of this State, regulating roads.

Sec. 8. Be it further enacted, That the board of Aldermen, shall have power to levy a tax on all persons and property, both real and personal, in said town, subject to taxation by the laws of the State; provided, that the tax on property, shall not in any one year, exceed one-half of one per cent ad valorem, on such property; and no tax shall be levied unless by a vote of two-thirds of the members present; which shall be assessed and collected by the Constable, in the same manner as the State tax is collected.

Sec. 9. Be it further enacted, That the board of Aldermen, shall have power to appoint such additional officers, with the regulations of their duties and compensation as may be necessary, and may require of them bond and security, to the mayor in such sum as may be deemed necessary, to compel the efficient discharge of such duties as may be assigned them.

Sec. 10. Be it further enacted, That all offences against the by-laws, be presented before the Mayor, and governed by the laws organizing Justice Courts, and the Constable shall execute, and return all writs, issued by the Mayor, in the same manner as is provided by the law defining the duties of Constables.

Sec. 11. Be it further enacted, That the Constable shall give bond and security as required of other Constables, and shall have the same power, and be entitled to the same fees for similar services.

Sec. 12. Be it further enacted, That the Mayor of said town shall be entitled to such fees as may be allowed Justices of the Peace, for similar services, together with such other compensation as may be allowed him by a majority of the Aldermen present, at the time of such allowance.

Sec. 13. Be it further enacted, That the Aldermen shall be entitled to such compensation as may be allowed by a majority of the board; provided, that in no case the sum shall exceed two dollars per day, for each day they may be required to sit as such Aldermen.

Sec. 14. Be it further enacted, That the Treasurer shall safely keep all the money of said corporation, shall pay out the same upon the order of the board, and shall do such other duty as may be assigned him, by the by-laws; and shall give bond and security payable to the Mayor, in such sum as may be deemed proper, conditioned for the faithful performance of his duties, to be approved by the board; and shall be allowed such compensation as may be specified by the board of Aldermen.

Sec. 15. Be it further enacted, That the books and records of the corporation shall at all times be open for the examination of any citizen of said town.

Sec. 16. Be it further enacted, That this act take effect from its passage.

Approved, February 9, 1850.

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## CHAPTER CXXXI.

An act to authorize and require the Auditor and Comptroller to audit and allow as a valid claim against the Republic of Texas, a debt contracted to pay the expenses of the Escort for General Santa Anna from Texas to Washington City.

Whereas, in the winter of the year, one thousand eight hundred and thirty-six, a note was drawn by Bernard E. Bee and George W. Hockley, and endorsed by W. H. Patten, W. H. Wharton, Waddy Thompson, F. H. Elmore and William B. Lewis for the sum of fifteen hundred dollars, due the thirtieth day of March, eighteen hundred and thirty-seven; which note was drawn un-

der the direction, and by the authority of the government of the Republic of Texas, for the purpose of raising money, to pay the expenses of the Escort of General Santa Anna, from Texas to Washington City, and was subsequently paid by some of the endorsers thereof; and whereas, said endorsers were in no manner interested in the consideration for which said note was given, and endorsed the same for the purpose of enabling the officers of the Republic of Texas, to raise means through their credit; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the Auditor and Comptroller, be, and they are hereby directed, to audit and allow as a valid claim against the Republic of Texas the aforesaid note, drawn by Bernard E. Bee and George W. Hockley, and endorsed by W. H. Patten, W. H. Wharton, W. Thompson, F. H. Elmore and William B. Lewis, for the sum of fifteen hundred dollars, due the thirtieth day of March, one thousand eight hundred and thirty-seven; and that said Auditor and Comptroller, be, and they are hereby required to issue a certificate for the amount of said note, with interest thereon, at the rate of eight per cent per annum, from the maturity thereof, in favor of the present holder of said note; which certificate shall be issued in conformity with the provisions of an act to provide for ascertaining the debts of the late Republic of Texas, approved March 20th, 1848; and shall have the same force and effect as other certificates issued under said act.

Sec. 2. This act shall take effect from and after its passage.

Approved, February 9, 1850.

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## CHAPTER CXXXII.

An act to amend an act entitled an act for the incorporation of the City of Laredo.

Section 1. Be it enacted by the Legislature of the State of Texas, That the second section of the above recited act, be amended so as to read as follows: that the bounds and limits of said city, and within which the said corporation shall exercise lawful jurisdiction, shall include and comprehend all that tract of land originally granted to, and composing said city.

Sec. 2. Be it further enacted, That the eighteenth section of the above recited act, be amended so as to read as follows: that no person shall be eligible to any office, nor be entitled to vote for any officer of said corporation, who is not either a householder



or freeholder, within the boundaries of said corporation, and who has not resided therein at least six months previous to such election, and paid up his city taxes.

Sec. 3. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, February 9, 1850.

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#### CHAPTER CXXXIII.

An act authorizing the Commissioner of the General Land Office, to issue headright certificates, fourth class, for three hundred and twenty acres each, to Juan Contreras and Juan Abilo.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required, to issue head right certificates, fourth class, for three hundred and twenty acres each, to Juan Contreras and Juan Abilo; and that this act be in force from and after its passage.

Approved, February 9, 1850.

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#### CHAPTER CXXXIV.

An act for the relief of Edward Miles.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue a certificate for one third of a league of land to Edward Miles.

Sec. 2. Be it further enacted, That said certificate may be located on any vacant or unappropriated lands in this State, according to existing laws.

Sec. 3. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, Feb. 9, 1850.

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#### CHAPTER CXXXV.

An act for the relief of John R. Baker.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Auditor and Comptroller of the State, be, and

they are hereby authorized and required, to audit the account of John R. Baker, for the sum of eight hundred and eighty-nine dollars and fifty cents; the same to be held as a claim against the late Republic of Texas.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, February 9, 1850.

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#### CHAPTER CXXXVI.

An act for the relief of the Heirs of Thomas Weston, deceased, and their assigns.

Whereas, the State of Texas, did on the first day of June, in the year 1846, by patent, grant to the heirs of Thomas Weston, deceased, six hundred and forty acres of land, being the donation claim which the said Thomas Weston received from the late Republic of Texas; and whereas, the said land lies upon or near the county line of Bexar county; and whereas, doubts have arisen whether said land is included in the Bexar land district, in which the same was surveyed, or the adjoining district; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the State does hereby relinquish all her right, title and interest, in and to the land described in said patent, to the heirs of the said Thomas Weston, and their assigns, and declare legal and valid said survey; provide this act shall not be construed to the prejudice of any right heretofore acquired in and to the said land.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, February 11, 1850.

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#### CHAPTER CXXXVII.

Joint Resolution for the relief of Green K. Cessna and Nancy K. Cessna.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Commissioner of the General Land Office, be, and he is hereby authorized and required, to issue to Green K.

Cessna, and Nancy K. Cessna, each a certificate for six hundred and forty acres of land; which certificate may be located on any vacant and unappropriated lands of this State, and upon the return of the field-notes and the payment of all government dues, to issue patent as in other cases provided for by law.

Sec. 3. Be it further resolved, That this joint resolution take effect and be in force from and after its passage.

Approved, February 11, 1850.

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#### CHAPTER CXXXVIII.

An act making an appropriation of land for the payment of Henry P. Brewster and James Webb, for professional services rendered by them in behalf of the State.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office, be, and he is hereby authorized and required, to issue [to] Henry P. Brewster and James Webb, each a certificate for one league and labor of land, for professional services rendered by them on behalf of the State as follows: Henry P. Brewster in the cases of Austin and Perry vs. the President, Geo. W. Glasscock vs. Commissioner of the General Land Office; James Webb in the cases of James F. Perry, Executor of S. F. Austin vs. The Republic of Texas, James F. Perry, Executor and Samuel M. Williams vs. The Republic of Texas; said certificates to be located on any public domain of the State, free of all expenses except the fees for surveying.

Approved, February 11, 1850.

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#### CHAPTER CXXXIX.

An act for the relief of Robert E. Neill.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office, be and he is hereby authorized and required, to issue to Robert E. Neill, a certificate for one league of land, which may be located on any of the vacant and unappropriated domain of the State, and when so located and the field notes thereof returned to the General Land Office, the Commissioner thereof, shall issue a pa-

tent thereon to the said Neill, or his assignee, upon payment of patent fees and government dues, as in other cases.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, February 11, 1850.

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#### CHAPTER CXL.

Joint Resolution authorizing the Supreme Court to hold their sessions in the Capital of the State.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Supreme Court be authorized to occupy either chamber of the Capitol for the purpose of holding their sessions, after the adjournment of the Legislature; and that the Judges be requested to take such measures as may be necessary to prevent the removal from the Capitol, or the destruction of furniture, and for the safe delivery of the same to the superintendent of the Capitol, after the adjournment of the Court.

Approved, February 11, 1850.

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#### CHAPTER CXLI.

Joint Resolution making an appropriation for the purchase of certain books for the use of the Supreme Court.

Resolved by the Legislature of the State of Texas, That the sum of one hundred dollars, be, and the same is hereby appropriated, for the purchase of thirteen volumes of a collection of the laws, decrees, edicts, regulations, etc., of the Supreme and other authorities of the Republic of Mexico, by Basilio Jose Arrillaga, for the use of the Supreme Court of this State; and that the Comptroller, be, and he is authorized to draw his warrant for the said amount, on the certificate of the Chief Justice of the Supreme Court, that he has received said books for the use of said court; and this resolution shall take effect from its passage.

Approved, February 11, 1850.

CHAPTER CLXII.

An act to change the name of Jesse Gilliam, to that of Jesse Tarrant Gilliam.

Section 1. Be it enacted by the Legislature of the State of Texas, That the name of Jesse Gilliam, an adopted child of General Edward Tarrant, be, and the same is hereby changed to that of Jesse Tarrant Gilliam; and by that name the said child, shall be recognized and known in all cases, in which he shall be concerned or in any way interested.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, Feb. 11, 1850.

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CHAPTER CLXIII.

An act for the relief of George T. Howard and Duncan C. Ogden.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of seven thousand three hundred and thirty-three dollars, with eight years and six months interest thereon, at the rate of eight per cent per annum, being four thousand nine hundred and eighty-six dollars and forty-four cents, the principal and interest amounting together to twelve thousand three hundred and nineteen dollars and forty-four cents, be, and the same is hereby acknowledged to be due from the Republic of Texas to George T. Howard and Duncan C. Ogden, for sundry merchandise furnished the Santa Fe expedition in the year 1841.

Sec. 2. Be it further enacted, That the Auditor and Comptroller, be, and they are hereby authorized and required, to issue to the said Howard and Ogden, certificates of debt, of the second class, against the said Republic of Texas, for the amount expressed in the first section of this act, in sums of not less than one thousand dollars each.

Sec. 3. Be it further enacted, That George T. Howard and Duncan C. Ogden, be authorized to surrender any portion of such certificates as may be issued under the provisions of this act, and have the same cancelled by the Comptroller and Treasurer, who shall certify the same under their seals of office to the Commissioner of the General Land Office; whereupon the said Commissioner of the General Land Office, shall issue to the said Howard and Ogden, land scrip for the same, at fifty cents per acre; to be

located in tracts not less than three hundred and twenty acres each, to be located on any public vacant domain of the State.

Approved, February 11, 1850.

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#### CHAPTER CLXIV.

An act to validate certain patents therein designated.

Section 1. Be it enacted by the Legislature of the State of Texas, That the State does hereby ratify and confirm, patent number one hundred and fifteen, of the first class, dated August 24th, 1846, for one half of a league of land; patent number three hundred and forty-eight, dated December 20th, 1847, of the first class, for one league and one labor of land; and a patent for one half of a league of land, dated August 24th, 1848, granted to Francisco Gomez; all of which are surveyed in the district of San Patricio, and west of the Nueces river.

Sec. 2. Be it further enacted, That the State of Texas does hereby relinquish all her right to the lands described in said patents, to the grantees, their heirs or assigns; and this act take effect and be in force from and after its passage.

Approved, February 11, 1850.

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#### CHAPTER CLXV.

An act for the relief of the Heirs and legal representatives of Willis A. Forris, deceased.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office, be, and he is hereby required, to issue a certificate for one league and labor of land, to the heirs or legal representatives of Willis A. Forris, deceased; and that the same may be located, surveyed and patented, on and to any of the vacant and unappropriated lands of this State; provided however, this act shall only be of force and effect, if the party has not heretofore received his headright.

Sec. 2. Be it further enacted. That this act shall take effect and be in force from and after its passage.

Approved, February 11, 1850.

CHAPTER CXLVI.

An act to incorporate the Jasper Cotton Manufacturing Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That Abel Adams, John B. Hewett, R. C. Doom, Z. Williams Eddy, Thomas E. Herrington, Barney Lowe, Wm. S. Neyland, Joshua Grant, L. M. Robertson, Thomas Beatty, Wm. S. Reaghis, A. F. Smyth, Wm. Allen and Seymour White, together with their successors and assigns be, and are hereby constituted a body politic and corporate, under the name and style of the Jasper Cotton Manufacturing association, with a common seal; and by that name may sue and be sued; plead and be impleaded; answer and be answered unto; to appear, prosecute or defend; to recover judgment in any court of competent jurisdiction; to elect annually, one Secretary and Treasurer, and nine Directors, each of whom shall own at least one thousand dollars worth of stock in the company, and fix their compensation for conducting the affairs of the corporation, and to do and perform all other acts and business that may come within the purview of the same.

Sec. 2. Be it further enacted, That the object and business of the corporation shall be the spinning and weaving of cotton and wool, and that it shall have a capital of twenty-five thousand dollars, in shares of one hundred dollars each, with the privilege of increasing said capital to one hundred thousand dollars.

Sec. 3. Be it further enacted, That the company in and by their corporate name shall have power to purchase hold and enjoy, to them and their successors and assigns, all such lands, tenements, hereditements, goods, chattels, and slaves of every kind and description, as shall or may come within the scope and business of the corporation.

Sec. 4. Be it further enacted, That the stock property and business of the company shall be under the care and control, management and direction of the said nine Directors, who shall elect from their number a President, to preside over them, and such other officers, agents, and associates, as the by-laws may direct, or the business require; said Directors shall open a book for subscription, and have power to call in, collect and appropriate the capital stock of said company, in such installments and at such times and places as they may order, giving such notice as the by-laws may direct, and upon a call for instalment, if a stockholder neglects or refuses to pay such instalment, within sixty days from such call and notice thereof, by publication or otherwise, the stock of such stockholder shall be sold at public auc-

tion, after sixty days notice of the time and place of such sale, has been given by at least three publications in a newspaper, when deducting the amount of such instalment and all expenses of notice and sale, and all that may be due the company from such stockholder, the remainder if any, shall be paid over to such stockholder.

Sec. 5. Be it further enacted, That five shall constitute a quorum of the directors when assembled for the transaction of business, and a majority of the stockholders shall be necessary to constitute a meeting of the stockholders for the purpose, and each share shall be entitled to one vote; said Directors shall cause to be made and published certain by-laws; may direct an annual statement of the accounts and business of the corporation; keep and cause to be kept fair books of the whole transaction of the company, and have the same open at all reasonable times, and accessible for the inspection of the stockholders, and a neglect or refusal to permit an inspection of the books thereof, by a stockholder in person or by his attorney in fact, after three days notice in writing, served upon the Secretary, or posted on the door of his company office, shall be a misdemeanor on the part of the said Secretary and all the Directors, for which they shall be liable to fine and imprisonment, by proceeding in the District Court; and on an application of the funds or effects of the corporation by any of the officers or agents thereof, to his, or their own private use, or a wilful misapplication or mismanagement of the business or funds thereof by the Directors shall be a penal offence, and punished as embezzlements are punished by the law of the land.

Sec. 6. Be it further enacted, That the stock of said company shall be considered personal property and transferable only on the books thereof, and the company shall have a lien upon all stock and property of a stockholder, for all debts due to the company by a stockholder.

Approved, February 11, 1850.

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## CHAPTER CXLVII.

An act for the relief of J. B. Hoxie, William C. Harrison and William E. Parker.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to J. B. Hoxie,



a land certificate for one-third of a league of land as a head-right; to William C. Harrison a certificate, for twelve hundred and eighty acres of land, and to William E. Parker a certificate for three hundred and twenty acres of land, to be located and patented under the same rules and regulations that govern the locating and patenting of similar claims.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, February 11, 1850.

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CHAPTER CXLVIII.

An act to change the names of Magdaline Margaret and Robertor W. Simpson, minor daughters of the Rev. James Simpson, to Magdaline Eliza Walker and Robertor W. Walker.

Section 1. Be it enacted by the Legislature of the State of Texas, That the names of Magdaline Margaret Simpson and Robertor W. Simpson, minor daughters of the Rev. James Simpson, be, and they are hereby changed permanently to Magdaline Eliza Walker and Robertor W. Walker.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, February 11, 1850.

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CHAPTER CXLIX.

An act to grant twelve thousand acres of land scrip to Mrs. Sophia J. St. Johns, wife of Samuel J. St. Johns, Jr.

Whereas, when the Republic of Texas required funds to assist her in the struggle for independence, Samuel J. St. Johns, Jr., with that zeal for the advancement of liberty, stepped forward to our assistance, and donated to the government at one time five thousand dollars, and another time one thousand dollars, thus materially assisting us; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That as a token of gratitude for services rendered, a certificate for twelve thousand acres of land scrip be issued to Mrs. Sophia J. St. Johns, wife of the said Samuel J. St. Johns, for her

sole use and benefit, and that the Commissioner of the General Land Office be required to issue scrip therefor, to be located on any vacant public land in this State; provided, the same shall be surveyed in tracts of not less than three hundred and twenty acres, and provided, further, said certificates shall not be located upon any previously titled land.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, February 11, 1850.

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## CHAPTER CL.

An act to incorporate the town of Marshall.

Section 1. Be it enacted by the Legislature of the State of Texas, That the citizens of the town of Marshall be, and they are hereby declared a body corporate by the name and style of the corporation of the Town of Marshall, and by that name may sue and be sued, plead and be impleaded, and may hold and dispose of real and personal estate.

Sec. 2. That the limits of said corporation shall be one mile square, of which the Courthouse of the county of Harrison, in the town of Marshall, shall be the centre.

Sec. 3. That an election for a Mayor, five Aldermen, a Treasurer, Recorder, and a Constable, shall be held as soon as practicable after the passage of this act, by the Chief Justice, or one of the Commissioners of Harrison county, according to the laws governing elections generally, and annually thereafter for a similar purpose, an election shall be conducted by the Mayor, or a majority of the Aldermen acting at the time of such election; and the persons elected shall continue in office one year, or until their successors are duly qualified. And the annual election for Mayor and Aldermen shall be held at such place in the town of Marshall as may be designated by the board, for the convenience of the people.

Sec. 4. That whenever a vacancy shall occur in the office of Mayor, a majority of the Aldermen acting shall order and conduct an election to fill such vacancy, and the person so elected shall hold his office until the next regular election, or until his successor be duly qualified; and in case of the death, resignation or removal of any Alderman, Treasurer or Constable, the Mayor

shall order an election, under such rules and regulations as may be prescribed by the board, to fill such vacancy.

Sec. 5. That no person shall be eligible to the office of Mayor, Aldermen, Treasurer, or Constable, unless such person be a citizen of said town.

Sec. 6. That the Mayor shall be President of the Board of Aldermen; that three of the members of said board shall constitute a quorum to transact business, and that said board shall enact such by-laws for the government of said town, not inconsistent with the constitution and laws of the State, as may be deemed proper, and may impose fines for the disobedience of the same, not exceeding twenty dollars for each offence.

Sec. 7. That the board of Aldermen shall have and exercise control over the public square and streets of said town, and may compel all free male citizens, ministers of the Gospel excepted, over the age of seventeen years and under that of forty-five, to work on the same; provided, that such person shall not be required to work more than six days in any one year, and shall be exempt from other road duty in said county; and the board may impose such fines on defaulters as they may deem necessary, in which they shall be governed by the laws of this State regulating roads.

Sec. 8. That the board of Aldermen shall have power to levy a tax on all persons and property, both real and personal, in said town, subject to taxation by the laws of the State; provided, that the tax on property shall not in any one year exceed one-half of one per cent. ad valorem on such property; and no tax shall be levied unless by a vote of two-thirds of the members present, which shall be assessed and collected by the Constable, in the same manner as the State tax is collected.

Sec. 9. That the board of Aldermen shall have power to appoint such additional officers, with the regulation of their duties and compensation as may be necessary, and may require of them bond with security to the Mayor in such sum as may be deemed requisite to compel the efficient discharge of such duties as may be assigned to them.

Sec. 10. That all offences against the by-laws be presented before the Mayor, and governed by the law organizing Justices' Courts; and the Constable shall execute and return all writs issued by the Mayor, in the same manner as is provided by the law defining the duties of Constables.

Sec. 11. That the Constable shall give bond and security as required of other Constables, and shall have the same powers, and be entitled to the same fees for similar services.

Sec. 12. That the Mayor of said town shall be entitled to

such fees as may be allowed Justices of the Peace for similar services, together with such other compensation as may be allowed him by a majority of the Aldermen present at the time of such allowance.

Sec. 13. That the Aldermen shall be entitled to such compensation as may be allowed them by a majority of the board; provided, that in no case the same shall exceed two dollars per day for each day they may be required to sit as such Aldermen.

Sec. 14. That the Treasurer shall keep safely all the money of said corporation; shall pay out the same upon the order of the board, and shall do such other duty as may be assigned him by the by-laws; and he shall give bond with security payable to the Mayor, in such sum as may be deemed proper, conditioned for the faithful performance of his duties, to be approved by the board, and shall be allowed such compensation as may be specified by the board of Aldermen.

Sec. 15. That the Mayor be, and he is hereby vested with all the power and jurisdiction of a Justice of the Peace within the limits of said corporation.

Sec. 16. That the books and records of the corporation shall at all times be open for the examination of any citizen of said town.

Sec. 17. That all laws and parts of laws contravening the provisions of this act be repealed, and that this act take effect and be in force from and after its passage.

Approved, Feb. 11, 1850.

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## CHAPTER CLI.

An act to change the name of George Harrell to George W. Gibbs.

Section 1. Be it enacted by the Legislature of the State of Texas, That the name of George Harrell be, and the same is hereby changed to that of George W. Gibbs, and that he is hereby declared the heir at law of Elhanan W. Gibbs, of the county of Panola, and capable of inheriting his property in the same manner as if he was an heir by descent.

Approved, Feb. 11, 1850.

CHAPTER CLII.

Joint Resolution authorizing R. J. Neighbors, the commissioner appointed to organize the Counties of Presidio, El Paso, Worth and Santa Fe, to draw his salary in advance.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Treasurer is authorized and required to pay to R. Neighbors the sum of five hundred and fifty dollars, the amount of his salary as commissioner to organize the new counties on the Rio Grande and Santa Fe, in advance; and that this joint resolution take effect from its passage.

Approved, February 11, 1850.

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CHAPTER CLIII.

Joint Resolution for the relief of Brown and Tarbox.

Whereas, Lyman Tarbox and J. F. Brown, mail contractors on route No.     ; and whereas, the said Brown and Tarbox conveyed said mail each alternate day during the last session of the legislature, when they were only bound to carry the same semi-weekly, thereby greatly facilitating the transmission of intelligence to and from the capitol of said State of Texas; therefore,

1. Be it resolved by the Legislature of the State of Texas, That our Senators and Representatives in the United States Congress are instructed to urge the passage of a law for the relief of said Brown and Tarbox, by compensating them for said extra services.

Resolved, That the Governor of the State is requested to transmit to our said Senators and Representatives a copy of this joint resolution.

Approved, February 11, 1850.

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CHAPTER CLIV.

An act for the relief of the minor heirs of Louis P. Cooke.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Comptroller of Public Accounts be, and he is

hereby required to carry out the provisions of an act for the relief of Louis P. Cooke, approved 4th February, 1842, and upon the payment of the balance due, it shall be the duty of the said Comptroller to execute a title in the usual form to the minor heirs of Louis P. Cooke.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, February 11, 1850.

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#### CHAPTER CLV.

An act for the relief of George C. Arnest.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office, be, and he is hereby authorized and required to issue a patent for one-third of a league of land to George. C. Arnest, for the land described in the field-notes of a survey made in his name in Bexar land district, upon his paying the government dues and the other fees required by law.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, February 11, 1850.



## STATE OF TEXAS.

I, JAMES WEBB, Secretary of State of the State of Texas, certify that the Third Legislature of said State, commenced its session at the City of Austin, on Monday the 5th day of November, in the year one thousand eight hundred and forty-nine, and adjourned on Monday the 11th day of February, in the year one thousand eight hundred and fifty.

And I further certify, that the Acts and Joint Resolutions contained in this volume are true copies, with the exception of the words embraced in brackets, taken from the original rolls deposited in the Department of State, with which they have been carefully compared.

Given under my hand and official seal, at the City of  
[L. s.] Austin, the twenty-fifth day of March, in the year  
one thousand eight hundred and fifty.

JAMES WEBB.

Note.—The words embraced in brackets were inserted by the Secretary of State in comparing the laws, supposing them to be omissions in enrolling the bills.



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**LAWS**

**OF**

**THE THIRD LEGISLATURE**

**OF**

**THE STATE OF TEXAS**

**VOLUME III.—PART III.**

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**PUBLISHED BY AUTHORITY.**

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**AUSTIN.**  
**1850**

\*.\* For more convenient reference, the laws contained herein are severally designated by chapters and numbers in regular series. The laws of the first Legislature are considered as being embraced in volume I, those of the second in volume II, and those of the present in volume III—part III.

\*.\* The laws of the regular session of the third Legislature, heretofore published, are divided into two parts—the first embracing the general and the second the special laws. Those of the extra or second session contained herein, are therefore published as Part III of volume III.

\*.\* Those laws signed by the Governor, are designated by the word Approved—and those not signed by him, are said to be Passed.



VOLUME III—PART III.

GENERAL AND SPECIAL LAWS.

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CHAPTER I.

An Act to amend the second Section of an Act to define the Time of holding the Courts in the several Judicial Districts, approved February 29th, 1848.

Section 1. Be it enacted by the Legislature of the State of Texas, That the second section of said act shall be and is hereby so amended that it shall hereafter read as follows, to wit:

That the district courts in the third judicial district, shall commence and be holden as follows:

In the county of Washington, on the first Mondays in March and September, and may continue in session three weeks;

In the county of Burleson, on the fourth Mondays in March and September, and may continue in session one week;

In the county of Milam, on the first Mondays after the fourth Mondays in March and September, and may continue in session one week;

In the county of Bell, on the second Mondays after the fourth Mondays in March and September, and may continue in session one week;

In the county of McLellan, on the third Mondays after the

fourth Mondays in March and September, and may continue in session one week.

In the county of Falls, on the fourth Mondays after the fourth Mondays in March and September, and may continue in session one week;

In the county of Limestone, on the fifth Mondays after the fourth Mondays in March and September, and may continue in session one week.

In the county of León, on the sixth Mondays after the fourth Mondays in March and September, and may continue in session one week;

In the county of Robertson, on the seventh Mondays after the fourth Mondays in March and September, and may continue in session one week;

In the county of Brazos, on the eighth Mondays after the fourth Mondays in March and September, and may continue in session one week.

Sec. 2. Be it further enacted, That all laws and parts of laws contrary to the provisions of this act be, and the same are hereby, repealed; and that this act take effect and be in force from and after the 25th day of November, A. D. 1850.

Approved, August 23, 1850.

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## CHAPTER II.

An Act making an Appropriation for the Payment of outstanding Liabilities of the Mission of Maj. R. S. Neighbors, to organize the Counties of Presidio, El Paso, Worth and Santa Fe.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of twelve hundred and fifty-six fifty-one hundredths dollars, be, and the same is hereby appropriated, to reimburse Maj. R. S. Neighbors, for expenditures of mission to organize the counties of Presidio, El Paso, Worth and Santa Fe; and the Comptroller is hereby authorized and required to draw his warrant on the Treasury in favor of Maj. Neighbors for the above amount.

Approved, August 28, 1850.

CHAPTER III.

An Act making an appropriation of Money to build a Fire-proof Land Office.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of ten thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of any money which may come into the Treasury, by the sale of the lots belonging to the State in the City of Austin, to pay for building a Fire-proof Land Office, at the seat of government in this State.

Sec. 2. That the amount hereby appropriated, shall be under the control of the Commissioner of the General Land Office, who shall contract for the erection of said building, and see that his said contract is fully complied with, the same being made with a view to convenience, durability and safety. The said building shall be constructed in accordance with such plan as the Commissioner may adopt, and the Commissioner shall be held responsible for the proper application and disbursement of the money appropriated by this act.

Sec. 3. That the said building contemplated by this act shall be of durable stone, with a fire-proof roof, and shall in every respect be made secure from destruction by fire, as far as practicable.

Sec. 4. That before letting out the said contract, the Commissioner shall advertise for proposals, at least sixty days; and shall on a given day examine said bids, and let the contract out to the lowest responsible bidder; and he shall require said contractor to enter into bond with three or more responsible securities, in double the amount of the whole cost of the building, for the faithful performance of said contract.

Sec. 5. That the Commissioner of the Land Office, be and he is hereby authorized to use any note, or notes that may be hereafter given, for the purchase of public lots in the City of Austin, in paying for the building herein contemplated; provided said notes can be used at par.

Sec. 6. That the ground whereon the said building shall be erected, shall be selected on any of the public lot, or lots of the State, that may be selected by the Commissioner of the Land Office, Governor and Secretary of State; or any two of them may select; and that this act take effect from and after its passage.

Approved, September 2, 1850.

## CHAPTER IV.

An Act to define the Time of holding the Courts in the Third Judicial District, for the Fall Term, 1850.

Section 1. Be it enacted by the Legislature of the State of Texas, That a district court shall be held in each county in the third judicial district of the State of Texas, hereafter named, and such courts shall commence on the days and may continue for the time herein specified.

In the county of Brazos, on the first Monday in September, A. D. 1850, and may continue in session one week.

In the county of Leon, on the second Monday in September, A. D. 1850, and may continue in session one week.

In the county of Limestone, on the third Monday in September, A. D. 1850, and may continue in session one week.

In the county of Robertson, on the fourth Monday in September, A. D. 1850, and may continue in session one week.

In the county of Milam, on the fifth Monday in September, A. D. 1850, and may continue in session one week.

In the county of Burleson, on the first Monday in October, A. D. 1850, and may continue in session one week.

In the county of Washington, on the sixth Monday after the fourth Monday in September, A. D. 1850, and may continue in session three weeks.

Sec. 2. That all writs and process of every kind that have been, or may hereafter be issued from any of the district courts of the third judicial district, shall be considered as returnable, and shall be returned to the terms as established by this act; and all such writs and process shall have the same force and effect, as if they had originally been issued so returnable.

Sec. 3. That all acts and parts of acts conflicting herewith, so far as the same respects holding the fall term, 1850, of the courts of the third judicial district, be, and the same are hereby repealed; and that this act shall take effect and be in force from and after its passage.

Approved, September 2, 1850.

CHAPTER V.

Joint Resolution for the Relief of the Heirs of Louis P. Cooke.

Section 1. Be it resolved by the Legislature of the State of Texas, That the provisions of the second section of an act approved 4th of May, 1846, entitled an act for the relief of any person who may have purchased lots in the City of Austin, and out lots upon the tract adjoining, be, and the same are hereby extended to the heirs of Louis P. Cooke, so that any money he may have paid upon lots heretofore forfeited, may be transferred to the payment of any money now due, or to become due, the State of Texas, by the legal representative of said Cooke, as payment on any Austin City lot or lots.

Sec. 2. Be it further resolved, That this resolution take effect from and after its passage.

Approved, September 3, 1850.

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CHAPTER VI.

An Act making an Appropriation for the per diem Pay and Mileage of the Members and Officers of the Legislature, at the extra Session, convened the 12th of August, 1850.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of fifteen thousand dollars be, and the same is hereby appropriated for the per diem pay and mileage of the members, and per diem pay of the officers of the two Houses, at the same per diem pay as the officers and members received at the first session of the third Legislature, for this extra session of the Legislature, convened by proclamation of the Governor, at the City of Austin on the 12th day of August, 1850; and that the certificate of the Secretary of the Senate and of the Chief Clerk of the House, shall be authority for the Comptroller to draw on the Treasury, for the several amounts that the officers and members are respectively entitled to; and that this act take effect from its passage.

Approved, September 3, 1850.

## CHAPTER VII.

## An Act to authorise the Sale of Austin City Lots and reserved Tract adjoining.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Comptroller of Public Accounts be and he is hereby authorized and required to cause the reserved tract of land adjoining the City of Austin, and belonging to the State, to be laid off in lots of convenient size, and after giving at least ninety days previous notice of the time, place and terms of sale, by weekly advertisements until the day of sale, in the newspapers published in said city, and in three other newspapers published in the State, to offer for sale at public auction, to the highest bidder, at the Comptroller's office in Austin, said lots so laid off, together with the unsold forfeited lots in said city, except lot No. 4, in block 98, belonging to James O. Rice, and such of the reserved lots therein, as he may think it expedient to sell, not exceeding half of said lots and tract adjoining, upon the following terms, to wit: one-third of the purchase money to be paid in cash, at the time of sale, and the balance in two equal semi-annual instalments; the first to be paid in six months, and the second in twelve months from the day of sale; the postponed payments to be secured by bonds with approved security, made payable to the Comptroller, whose duty it shall be to pay into the Treasury of the State all the money arising from such sales, after deducting enough to defray the necessary expenses thereof.

Sec. 2. The Comptroller may adjourn the sale from day to day for six days, or discontinue the sale, when he shall believe the interest of the State may require it; provided that no other postponement shall be made for a shorter time than sixty days; and the Comptroller shall cause weekly notice to be given in the newspapers printed at Austin during the time of such postponement, of the time, place and terms of the resumed sale.

Sec. 3. The Comptroller shall deliver to the purchaser a certificate describing the property by him purchased, and setting forth the price for which such purchase was made, which certificate shall be sufficient authority for the purchaser to enter upon, hold and occupy the property by him purchased, unless the same shall become forfeited by the non-payment of any of the instalments as herein provided. Upon the presentment of any certificate with the Comptroller's receipt in full thereon, the Commissioner of the General Land Office shall issue a patent to the

owners for the lot or tract therein described; provided, that in no case shall a patent issue until full payment is made.

Sec. 4. That citizens who have erected houses upon, or fences around the reserved lots, in the City of Austin, shall be and are hereby authorized to remove the same therefrom.

Sec. 5. That in the event any purchaser or owner of any lot or tract of land shall fail to pay any of the instalments as the same shall become due, it shall be the duty of the Comptroller to proceed forthwith to sell, after giving thirty days notice in some newspaper published in the City of Austin, such forfeited lot or tract of land; which sale shall be made on the same terms, and the patent shall issue under the same restrictions, as herein provided in the first instance.

Sec. 6. Be it further enacted, That if any person or persons shall fail to make payment of the several instalments in conformity with this act, as they become due, he or they shall forfeit all such sums as may have been previously paid, and the ground and improvements situated thereon shall by such default revert to the State, and the Comptroller shall immediately thereupon proceed to resell said property, as though no such forfeiture had taken place, according to the provisions of this act.

Sec. 7. The purchaser or owner of lots No. 10, in Division B, and Nos. 23 and 23½ in Division A, of the Government tract adjoining the City of Austin, shall have power to close up the street between the two said divisions, to the extent of said lots lying on both sides of said street; and that this act take effect from its passage.

Approved, September 3, 1850.

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## CHAPTER VIII.

An Act to repeal in Part the third and fourth Sections of an Act to incorporate the Town of Jefferson, approved March 20th, 1848.

Section 1. Be it enacted by the Legislature of the State of Texas, That the third section of the above recited act, be so amended, that if from any cause the election of town officers is not held as provided for in said section, it shall be the duty of the Chief Justice upon the petition of any five persons of said town,

to order the said election by giving ten days notice thereof, as provided in said section, and the officers so elected shall hold their offices twelve months from the date of their election; and should a vacancy occur in said board, by death, resignation or otherwise, such vacancy shall be filled by election ordered by said board, notice being given of said election as before provided.

Sec. 2. That the fourth section of the above recited act, be amended and construed as follows: That as soon as the first mayor and aldermen are qualified under the provisions of this act, they shall proceed to lay off the corporate limits of said town, viz: Commencing at the point where the east boundary line of Allen Urquhart's survey leaves the Big Cypress Bayou, and running from thence in a north-west course one mile, and from thence on a south-west line to a point where said line may strike the Big Cypress Bayou, thence down said bayou with its meanders to the place of beginning.

Sec. 3. There shall be one mayor, five aldermen, and other officers chosen by the qualified voters living within the foregoing limits, a majority of whom shall constitute a quorum to do business; and in case of the absence of the presiding officers of said board, it shall be the duty of said board to elect one of their number to fill said office pro tem.; and should said board from any cause be broken up, so that a quorum could not be had for the transaction of business, then it shall be the duty of the Chief Justice to order an election to fill vacancies in said board.

Sec. 4. All laws and parts of laws conflicting with the provisions of this act, are hereby repealed: and that this act be in force from and after its passage.

Approved, September 4, 1850.

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## CHAPTER XI.

An Act to incorporate the Sulphur Fork Navigation Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That James W. Jackson, and such other persons as he may associate with him, and their successors, are hereby constituted and incorporated a body corporate and politic, under the name and style of the sulphur Fork Navigation Company; and under that name, shall be capable to contract, to buy, receive,



and hold all property, real, personal or mixed; may have a common seal, and alter the same at pleasure; may sue and be sued, plead and be impleaded, in any court of this State; may pass all needful rules and regulations for the government of said company, not in conflict with the constitution or laws of this State, for the purpose of removing the obstructions in the Sulphur Fork of Red River, and preparing the same for navigation, either by keel or steamboats.

Sec. 2. That said company when they shall have cleared out and rendered navigable said river, shall have the exclusive privilege of navigating the same for the space of ten years; provided that the exclusive privilege herein granted, shall not extend to that portion of the Sulphur Fork of Red River at present, or which has heretofore, been navigated by steam or keel-boats.

Sec. 3. That if said company shall fail, or neglect to make said river navigable, within three years from the passage of this act, for a distance of one hundred miles above the highest point at which it is now, or has heretofore been navigated by steam or keel boats, then the privilege granted in this charter, shall cease and determine.

Sec. 4. That this act take effect and be in force from and after its passage.

Approved, September 4, 1850.

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## CHAPTER X.

An Act defining the Time for holding an Election for the County Seat of the County of Tarrant, and appointing a Place for holding the Courts for said County, until the County Seat is located.

Section 1. Be it enacted by the Legislature of the State of Texas, That the people of said county open and hold an election for the county seat of said county of Tarrant, on the first Monday in August, 1851, according to the provisions of an act creating the county of Tarrant, approved 20th December, A. D. 1849.

Sec. 2. Be it further enacted. That the several courts for said county shall be held at the store house of E. M. Daggete, in the vicinity of Fort Worth, until the election provided for in the

first section of this bill shall have been holden, and the county seat permanently located.

Sec. 3. Be it further enacted, That the territory and citizens west of said county of Tarrant, and east of the Brazos river, be under the jurisdiction and entitled to privileges and immunities of other citizens, until otherwise provided by law.

Sec. 4. Be it further enacted, That this act take effect from and after its passage.

Approved, September 4, 1850.

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## CHAPTER XI.

An Act supplementary to an Act to perfect the Land Titles in Castro's Colony, approved January 22, 1850.

Section 1. Be it enacted by the Legislature of the State of Texas, That the twelfth section of the above recited act, be so amended as to read as follows, to wit: That the description of the north-eastern and north-western boundary of the colony of H. Castro, shall be the dividing ridge between the waters of the Rio Frio and Medina rivers, and to continue with the ridge to a point bearing North 42 deg. east for a point three miles north from the centre of Dhanis village. Thence south 42 deg. west to said point three miles north from said village. Thence in a direct line to the point of confluence of the Arroyo de Uvalde with the Rio Frio; provided that nothing in this act contained shall affect any location or survey of land heretofore made.

Sec. 2d. Be it further enacted, That this act take effect from its passage.

Approved, September 4, 1850.

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## CHAPTER XII.

An Act to repeal an Act to incorporate Rio Grande City, approved January 10th, 1850.

Section 1. Be it enacted by the Legislature of the State of Texas, That an act entitled an act to incorporate Rio Grande City be, and the same is hereby, repealed.

Approved, September 4, 1850.

CHAPTER XIII.

An Act to change the name of certain Persons therein mentioned.

Section 1. Be it enacted by the Legislature of the State of Texas, That the name of Antoniett D. Scott be, and the same is hereby changed to Antoniett D. Devereux, and that the name of Sidney Way, be changed to Sidney Devereux.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, September 4, 1850.

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CHAPTER XIV.

An Act to authorize the qualified Electors of the Town of San Augustine to elect Corporation Officers for the same.

Section 1. Be it enacted by the Legislature of the State of Texas, That the qualified electors of the town of San Augustine be and they are hereby authorized to elect, under the regulations prescribed by law, all the corporation officers for said town, on the fourth Saturday in October next, and annually thereafter, according to the provisions of the third section of the act to incorporate the town of San Augustine; and, in case no election shall be had at the time specified, then at as early a period thereafter as practicable; and that this act take effect from and after its passage.

Approved, September 4, 1850.

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CHAPTER XV.

An Act legalizing the Organization of the Buffalo Bayou, Brazos and Colorado Rail Road Company.

Whereas, the commissioners of said company were under the necessity of using the power of attorney of two of the absent commissioners, for the purpose of calling a meeting of the same, in order to organize said company: and

Whereas, there is a doubt as to the right of said commissioners

to act by virtue of a power of attorney under the charter granted to said company, in calling said meeting: therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the organization of the Buffalo Bayou, Brazos and Colorado Rail Road Company, which took place in the city of Boston, in the State of Massachusetts, on the first day of June, 1850, be and is hereby declared legal, and shall have the same force and effect as if organized strictly in conformity with said charter.

Sec. 2. That this act take effect from and after its passage.

Approved, September 4, 1850.

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## CHAPTER XVI.

### An Act to incorporate Central Male and Female Institute in the County of Cass.

Section 1. Be it enacted by the Legislature of the State of Texas, That Robert Graham, Henry Story, Ebenezer Traylor, James Campbell and Charles Graham be, and they are hereby incorporated a body politic, under the name and style of the Trustees of the Male and Female Institute: capable of suing and being sued, of pleading and being impleaded; of holding property, either real, personal or mixed, of selling and conveying the same at pleasure; of bearing [having] a common seal, and of changing the same at pleasure; and of doing and performing whatever else that may be proper and necessary to be done for the advancement of said institution, not contrary to the constitution and laws of the State.

Sec. 2. Be it further enacted, That this charter and privilege shall extend to the said trustees and their successors in office, as long as they confine the benefit of the same to the advancement of the sciences, and the promotion of useful knowledge to [the] rising generation; which institution shall be accessible alike to all, without regard to opinions of religion or politics.

Sec. 3. Be it further enacted, That the trustees shall have full power to enact by-laws, rules and regulations for the government of said academy, as may seem to them necessary for that object.

Sec. 4. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, September 4, 1850.

CHAPTER XVII.

An Act to amend an Act entitled an Act defining the Times of holding the Courts in the Eighth Judicial District of this State, approved February 11, 1850.

Section 1. Be it enacted by the Legislature of the State of Texas, That the act defining the times of holding the courts in the eighth judicial district of this State, be so amended as to read as follows, to wit:

In the county of Bowie, on the first Mondays in March and September, and may continue one week.

In the county of Titus, on the second Mondays in March and September, and may continue one week.

In the county of Hopkins, on the third Mondays in March and September, and may continue one week.

In the county of Hunt, on the fourth Mondays in March and September, and may continue one week.

In the county of Collin, on the first Mondays after the fourth Mondays in March and September, and continue one week.

In the county of Denton, on the second Mondays after the fourth Mondays in March and September, and continue one week.

In the county of Cooke, on the third Mondays after the fourth Mondays in March and September, and continue one week.

In the county of Grayson, on the fourth Mondays after the fourth Mondays in March and September, and continue one week.

In the county of Fannin, on the fifth Mondays after the fourth Mondays in March and September, and continue one week.

In the county of Lamar, on the sixth Mondays after the fourth Mondays in March and September, and may continue one week.

In the county of Red River, on the seventh Mondays after the fourth Mondays in March and September, and may continue two weeks.

Sec. 2. Be it further enacted, That so much of the act to which this is an amendment be, and the same is hereby repealed; and this act take effect from and after the first day of January, 1851.

Approved, September 4, 1850.

## CHAPTER XVIII.

An Act to confirm certain Land Titles therein named, and to require the Commissioner of the General Land Office to issue Patents on the same.

Section 1. Be it enacted by the Legislature of the State of Texas, That the land titles which have been investigated by the commissioner and recommended favorably, under an act entitled an act to investigate land titles in certain counties therein named, approved February 10th, 1850, be and the same are hereby confirmed to the claimants thereof, as set forth in the report of William H. Bourland, one of the commissioners, on the 26th day of August, A. D. 1850.

Sec. 2. That it shall be lawful for the county surveyor of Webb county, immediately to survey and plat the lands designated in each of said applications, and upon the return of such field notes and plat to the General Land Office, it shall be the duty of the Commissioner of the General Land Office to issue patents thereon to the respective claimants.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved, September 4, 1850.

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CHAPTER XIX.

An Act making an Appropriation for the Construction of the Penitentiary.

Section 1. Be it enacted by the Legislature of the State of Texas, That an appropriation of two thousand dollars be, and the same is hereby, appropriated out of any moneys in the Treasury not otherwise appropriated, for the erection and support of the Penitentiary; which amount may be drawn on the order of the commissioners, and applied to the suport of convicts, and furnishing materials for the Penitentiary; and that this act take effect from its passage.

Approved, September 4, 1850.

CHAPTER XX.

An Act to authorize the People of Falls County to locate the County Site of said County.

Section 1. Be it enacted by the Legislature of the State of Texas, That it shall be the duty of the Chief Justice of Falls county, and he is hereby required, to order an election to be held at each of the several precincts in said county, on the first Monday in November next, by the qualified electors of said county, for the purpose of selecting a seat of justice for said county.

Sec. 2. That it shall be the duty of said Chief Justice to advertise the said election in each election precinct of said county, for ten days next preceding the day thereon fixed for holding such election, specifying, distinctly, in said advertisement or notice, the purpose for which said election is to be held.

Sec. 3. That the place receiving a majority of all the votes polled, shall be the site of justice for said county of Falls, and shall be called Marlin, until otherwise provided by law; and that all laws and parts of laws conflicting with the terms of this act be and the same are hereby repealed; and that this act take effect and be in force from and after its passage.

Approved September 4, 1850.

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CHAPTER XXI.

An Act to incorporate the Trinity Plank Road Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That Isaac Tousey, Frederick Pomrey and such persons as they may associate with them, are hereby incorporated under the name and style of the Trinity Plank Road Company, and under such name may sue and be sued, and have succession for and during the term of twenty years from and after the passage of this act, they may also have a corporate seal, which they may alter at pleasure, and also the right of holding such real and personal property as may be necessary for carrying out the objects of this incorporation.

Sec. 2. Be it further enacted, That it shall be the duty of said company within two years after the passage of this act, to erect a suitable plank road from the east-branch of the Trinity

river opposite the town of Cincinnati in the direction of Crockett to the high lands bordering on said river bottom; that said road shall be constructed above high water mark and shall not be laid out so as to interfere with the road as now used.

Sec. 3. Be it further enacted, That it shall be the duty of the county court of Walker county, at the request of said company to appoint three commissioners whose duty it shall be to inspect said road; and if they shall find the same completed in accordance with this act and suitable for travelling, they shall give said company a certificate of the fact; upon the receipt of said certificate the company may erect upon any portion of said road a toll-gate at which they may collect and receive toll at not exceeding the following rates:—For each road-wagon and four wheel pleasure carriage, sixty cents; every other vehicle fifty cents; for man and horse twenty cents; for single horse ten cents; for footman ten cents; for cattle purchased three cents; for sheep, goats and hogs two cents.

Sec. 4. Be it further enacted, That the commissioners appointed under this act shall have their office for the term of one year and until their successors shall be appointed by the court aforesaid, and it shall be their duty at any time when said road shall be out of order and unfit for travel to direct said toll-gate to be thrown open and so to continue until the same shall be put in order by said company.

Sec. 5. Be it further enacted, That it shall be the duty of said commissioners to inspect said road at least once in each and every year, for which they shall each receive two dollars to be paid by said company.

Sec. 6. Be it further enacted, That if any person travelling on said road shall wilfully go around said toll-gate for the purpose of evading the payment of the toll levied by this act, shall forfeit and pay to the company, five dollars for each and every offence, to be recovered before any justice of the peace in whose jurisdiction such person may be found. This act to take effect from and after its passage.

Approved, September 4, 1850.



CHAPTER XXII.

An Act to incorporate the Angelina Bridge and Turnpike Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That James H. Durst and such persons as he may associate with him, are hereby incorporated under the name and style of the Angelina Bridge and Turnpike Company, and under such name may sue and be sued, and have succession for twenty years from and after the passage of this act. They may also have a corporate seal and also the right of holding such real and personal property as may necessary for carrying out the objects of this incorporation.

Sec. 2. That it shall be the duty of said company within three years after the first day of January, 1851, to construct a good and substantial bridge across the river Angelina where the present mail route from Nacogdoches, Crockett and Huntsville, crosses said stream, and construct a good and substantial bridge across the main slough which runs through the river bottom, and shall throw up a turnpike and erect sufficient bridges wherever the same may be necessary, for the river out of the edge of the overflow, and shall make a good and convenient road through said bottom, all to be constructed above high water mark, and it shall be the duty of said company to keep said bridges and roads so constructed in a good state of repair during the aforesaid period of twenty years.

Sec. 3. That it shall be the duty of the county court of Nacogdoches county at the request of said company to appoint three commissioners whose duty it shall be to inspect said bridges and roads, and if said commissioners shall find the same completed in accordance with this act, they shall give said company a certificate of the fact; upon the receipt of said certificate the company may erect upon any portion of said road, or upon any of the bridges, a toll-gate, at which they may collect and receive toll at not exceeding the following rates.—For each road wagon and four wheel pleasure carriage, sixty cents; every other vehicle, twenty-five cents; man and horse, ten cents; single horse, five cents; footman, five cents; cattle per head, two cents; sheep, goats and hogs, one cent.

Sec. 4. That the commissioners appointed under this act shall hold their office for the term of one year and until their successors shall be appointed by the court aforesaid, and it shall be their duty at any time when said road or bridge be out of order and

unfit for travel, to direct said toll-gate to be thrown open and so to continue until the said road and bridges shall have been put in order by said company.

Sec 5. That it shall be the duty of said commissioners to inspect said bridges and road at least twice a year, for which they shall each receive two dollars to be paid by said company.

Sec. 6. That if any person travelling on said road or crossing on any of said bridges shall wilfully go around said toll-gate for the purpose of evading the payment of the toll levied by this act, shall forfeit and pay to the company five dollars and cost of suit for each and every offence, to be recovered before any justice of the peace in whose jurisdiction such person may be found.

Sec. 7. That it shall be the duty of said James H. Durst to notify the chief justice of Nacogdoches county in writing within three months from the passage of this act, that he accepts the same; and in case said Durst fails in giving such notice, it shall then be the duty of said chief justice to assign this charter to some responsible person or persons applying for the same, for the purpose of undertaking and carrying out the proposed work.

Sec. 8. That this act be in force and take effect from and after its passage.

Approved, September 5, 1850.

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### CHAPTER XXIII.

An Act to prohibit Assessors and Collectors of Taxes from exercising official Functions before they are duly qualified.

Section 1. Be it enacted by the Legislature of the State of Texas, That hereafter no assessor and collector of taxes shall exercise any official function or perform any official act before he shall have been commissioned.

Sec. 2. That if after any election for assessor and collector, it shall appear that the person elected is a defaulter, it shall be the duty of the Secretary of State immediately to notify the chief justice of the county in which the election was held, of such default and the amount thereof, who shall forthwith order an election to fill said office, and the said defaulter shall be ineligible at said second election, unless in the meantime he shall have made his settlement with the Comptroller, and produced said Comptroller's receipt thereof.

Approved, September 5, 1850.

CHAPTER XXIV.

An Act to incorporate the Colorado Navigation Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That Thomas J. Hardeman, John Caldwell, John Duncan, John Rugely, John W. Gordon, John D. Newell, Eli Mercer, C. K. Tate, John F. Miller, John Rabb, Jon W. Dancy, Geo. Hancock, John Craft, and their associates and successors, be, and they are hereby constituted a body corporate and politic, by the name and style of the Colorado Navigation Company, and under that name shall be competent to contract for, buy, and receive all kinds of property that may be necessary for the purpose for which said corporation is created; to make all contracts, and do all things which may be necessary to carry out the successful navigation of the Colorado river; to sue and be sued; to have a common seal; to bind themselves with or without seal, and to make their own by-laws, rules and regulations not conflicting with the provisions of this act, or with the constitution and laws of the State; and to hold and own property to any amount not exceeding one hundred thousand dollars.

Sec. 2. Be it further enacted, That the capital stock of said company shall consist of subscriptions already made for the removal of the obstructions from the Colorado river, and of such subscriptions as may hereafter be made for that purpose, and of such amounts as may be paid for the purchase of stock certificates, and shall not exceed the sum of one hundred and fifty thousand dollars; that the said stock shall be held in shares of twenty-five dollars; and that any person who is a subscriber at the passage of this act shall have the right to increase his subscription to any amount he may desire, and shall be the holder of a share of said stock for every twenty-five dollars subscribed and paid.

Sec. 3. Be it further enacted, That the shareholders shall elect a board of twenty commissioners from among their number as soon after the passage of this act as may be deemed expedient by Thomas J. Hardeman, the present president of the board of river commissioners, for which purpose he may assemble said subscribers at such time and place as he may designate, giving notice thereof by previous publications for one month in two or more newspapers published on the river; and said commissioners shall hold their offices for the term of one year, or until such time as their successors may be elected in a manner to be determined by said board of commissioners.

Sec. 4. Be it further enacted, That in all elections provided for by this act, or by the by-laws and regulations that may be established by the board of commissioners, the subscribers shall have the right to vote in person or by proxy, in such manner as may be designated by the board of commissioners, except in the first election for commissioners, when they shall vote by ballot; and each subscriber shall be entitled to one vote for every share of twenty-five dollars subscribed by him, in the election of commissioners, and in all other matters which may come before the whole company for their action.

Sec. 5. Be it further enacted, That the board of commissioners, within one month after their election as provided in section 3, shall meet at such place as shall be designated by Thos. J. Hardeman, the present president of the board of river commissioners, and elect from their number a president and six directors, who shall compose a board of directors, who shall hold their offices for one year, and until their successors are elected in a manner to be provided by the board of commissioners; and said president so chosen by the board of directors, shall be president of the board of commissioners.

Sec. 6. Be it further enacted, That the board of commissioners shall meet at such stated times and places as a majority of the same in attendance may designate, and shall have power to pass all by-laws and regulations for the government of the company, and shall have a general superintendence and control of the board of directors; shall fix the salaries which the different officers of the company are to receive; prescribe such rules and regulations, for the government of the board of directors and all other officers of the company, as the board of commissioners may think proper; and shall have power to make all rules and regulations necessary to supply the places of officers who may resign, or die, or fail to attend, or from any other cause not be able to discharge the respective duties appertaining to their offices; and a majority of said board of commissioners shall constitute a quorum to transact business.

Sec. 7. Be it further enacted, That it shall be the duty of the president to attend all the meetings of the board of commissioners, of the board of directors, and to preside over the deliberations of the same; to order call meetings in such manner as the commissioners direct; and to perform such other duties as may be prescribed for him by the board of commissioners.

Sec. 8. Be it further enacted, That the board of directors shall hold their first meeting at such time and place as may be designated by the board of commissioners, and at such times and

places thereafter as they may think proper; shall have immediate control and supervision over the work of removing the obstructions in said river, and opening the same for navigation, under such rules and regulations as may be prescribed for their government by the board of commissioners; and the said board of directors shall, at their first meeting, elect a treasurer and secretary, who shall also be secretary for the board of commissioners.

Sec. 9. Be it further enacted, That it shall be the duty of the treasurer to receive all moneys due the company from the secretary, any one of the commissioners, or from the subscribers, and give his receipt for the same, and pay the same out in such manner as he may by the board of directors be authorized to do; and said treasurer shall give bond, with approved security, in such amount as the board of directors may determine, payable to the president of the Colorado Navigation Company and his successors, conditioned for the faithful performance of all his duties, and the safe keeping of all funds which may be committed to him, which bond shall not be void upon the first recovery, but shall remain in full force until the same be fully exhausted.

Sec. 10. Be it further enacted, That it shall be the duty of the secretary to keep a correct record of the proceedings of the board of directors and of the board of commissioners; he shall enter in a book to be kept by him for that purpose, the names of all the subscribers, the amount subscribed, and the date thereof—enter first the subscriptions now made, and shall also enter the different payments that may be made, by whom and when.

Sec. 11. Be it further enacted, That subscriptions and payments may be made with any one of the commissioners, with the secretary or treasurer; and the board of commissioners shall have full power and authority to make all necessary rules and regulations for their government in receiving subscriptions.

Sec. 12. Be it further enacted, That should a greater amount of money be subscribed than is necessary for the purpose of removing the obstructions in said river, that it shall be the duty of the board of directors to refund such excess as may so remain, to the respective subscribers, in proportion to the amount that may have been paid in by them.

Sec. 13. Be it further enacted, That said company shall have the right to charge and receive tolls on all vessels and freight passing up and down said river, at a rate to be fixed by the board of commissioners, specifying the amount per ton burthen upon vessels, and per barrel or hundred pounds upon freight on board of every such vessel navigating said river, until the full amount ex-

pended in removing the obstructions in said river, together with ten per cent. interest per annum thereon, shall be refunded.

Sec. 14. Be it further enacted, That any county situated on said river shall at any time after the completion of the work of removing the obstructions to the navigation of the same, have the right to pay into the treasury of said company her proportionate share of the whole amount of the sum expended in removing said obstructions and such interest as may have accrued thereon; the said proportion of the expenditure to be paid by such county to be determined by comparing her tax assessment-list with that of other counties situated on said river, and upon paying said amount such county shall have the right to navigate said river free of tolls; and all vessels navigating said river shall be exempted from the payment of tolls upon all freight to such county as may so pay her proportions of said expenditures; and said vessels shall be also entitled to a proportionate reduction of tolls upon her per tonnage burthen.

Sec. 15. Be it further enacted, That the several counties on said river shall have the right at any time to raise a sum of money by taxation or otherwise sufficient to pay off the whole amount of the expenses of removing said obstructions together with the interest thereon; and upon the payment of such sum of money into the treasury of said company or to the president thereof, said river shall be free for the navigation of all vessels, without toll or charge, of any character whatever; provided however that no counties shall be so taxed except by vote of a majority of the citizens thereof, to obtain which vote the chief justice of any of such counties may order an election to be holden after ten days notice; and should a majority of the votes of such county vote in the affirmative, then it shall be competent for the county court of such county to assess such tax.

Sec. 16. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, September 5, 1850.

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## CHAPTER XXV.

An Act to incorporate the Cass County Male and Female Academy, in the County of Cass.

Section 1. Be it enacted by the Legislature of the State of Texas. That J. D. Crawford, J. Dennard, R. P. Crump, Thomas M. Self, W. M. Freeman, J. G. Eason and N. Trawick, and their

associates and successors, are hereby created a body politic and corporate in deed and in law, by the name of the Cass County Male and Female Academy; and by that name, may have perpetual succession, and be capable in law of holding by purchase or donation, property both real and personal, in fee for years, so long as they confine their operations to the promotion of education; provided, that the capital stock shall not exceed fifty thousand dollars.

Sec. 2. Books shall be opened to receive subscriptions, in sums not less than five dollars, and any person who has heretofore subscribed or may hereafter give the above amount, shall be considered a patron or stockholder of said academy; may have the right to sell or transfer the stock at pleasure, and shall have the privilege of voting in person or by proxy, in all elections necessary for the government of said academy; provided, no one stockholder shall own more than twenty shares, and provided also, that no teacher in said academy shall be a stockholder in the same.

Sec. 3. The stockholders may have the power to disfranchise any of their members, by a vote of two-thirds of them; provided, they pay to such stockholder, the amount of his subscription.

Sec. 4. The stockholders shall elect from their number not less than five, nor more than seven trustees, who shall hold their office as such for the term of one year, whose duty it shall be to procure teachers, regulate prices of tuition, and govern generally the operations of the school; and shall have power to elect from their number a president, secretary and treasurer, who shall hold their offices during the time for which the trustees are elected.

Sec. 5. The trustees shall have power to make such by-laws, as they may deem necessary for their own government, and the management of the school; provided, they do not conflict with the constitution and laws of this State; and may alter and amend them at pleasure.

Sec. 6. This act shall take effect and be in force from and after its passage.

Approved, September 5, 1850.

## CHAPTER XXVI.

Joint Resolution requiring an Increase in the mail Service from Austin to Clarksville.

Section 1. Be it resolved by the Legislature of the State of Texas, That the contractors on route No. 6287, from Austin by Georgetown to the Falls of Brazos; route No. 6267, from Falls of the Brazos by Chambers' Creek, Red Oak, Pleasant Run, to Dallas; route No. 6260, from Dallas by Cedar Springs and McKinney to Bonham; route No. 6265, from Clarksville by Paris and Honey Grove, be and they are hereby required to convey the mails in two horse coaches.

Sec. 2. Be it further resolved, That our delegates in Congress, be requested to urge upon the Post Office department the necessity of this increase of service, and that the department allow increased pay accordingly; and that the following changes be made: that route No. 6287 shall pass through Georgetown, Nolansville and terminate at Waco Village, instead of Falls of the Brazos; and route No. 6267 shall commence at Waco Village instead Falls of Brazos.

Approved, September 5, 1850.

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## CHAPTER XXVII.

An Act making an Appropriation to pay Balance due for printing the Laws in the German and Spanish Languages, and for printing the Report of the Joint Committee, ordered to investigate the Offices of Treasurer and Comptroller.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of eleven hundred and thirty-five dollars and eighty cents be, and the same is hereby appropriated, to pay balance due for printing the laws in the German and Spanish languages, and the report of the joint committee to investigate the offices of Treasurer and Comptroller; and the Comptroller is hereby authorized and required to order the payment of the same, out of the unexpended balance of appropriation for printing the laws and journals of the regular session of the third Legislature.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, September 5, 1850.



CHAPTER XXVIII.

An Act to regulate the Shipping and Slaughtering of Cattle.

Section 1. Be it enacted by the Legislature of the State of Texas, That the captains of steamboats or vessels on which cattle are shipped to leave the State, or the proprietor or proprietors or agents of the same of any slaughtering establishments, shall keep, or cause to be kept, a register-book, in which the marks, brands, and general description of all cattle, of all ages, received on said boats or vessels, or slaughtered at said establishments, shall be registered, together with the names of the person or persons selling them, and the county from which they were driven.

Sec. 2. That said register on the first day of each month, or as near thereto as possible, shall be presented by said captains or proprietors, to the county clerk of the county where said cattle were shipped or establishments are situated; and said clerk shall keep a register of the same, and the registers shall at all times be open for inspection; and said captains, proprietors or clerks may charge a fee of fifty cents for each and every inspection thereof.

Sec. 3. That a non-compliance with the provisions of this act shall subject said captains, proprietors or clerks to a fine not less than ten dollars nor more than fifty dollars, for each head of cattle shipped or slaughtered, not registered; and said fine with proper proof made shall be recoverable in any court of competent jurisdiction.

Approved, September 5, 1850.

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CHAPTER XXIX.

Joint Resolution Granting Leave of Absence to the State Treasurer.

Resolved by the Legislature of the State of Texas, That James H. Raymond, State Treasurer be, and he is hereby granted leave of absence from the State, for twelve weeks during the year 1851; provided, that nothing herein contained shall release said Treasurer or his securities from liability on the official bond of said Treasurer, during such absence.

Approved, September 5, 1850.

## CHAPTER XXX.

An Act making Appropriations for Printing the Laws and Journals of the Extra Session of the Legislature, convened on the 12th Day of August, 1850, and for other Purposes.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of twelve hundred dollars be and the same is hereby appropriated to pay for copying and printing the laws and journals of the extra session of the third Legislature, convened on the twelfth day of August, 1850: and the further sum of two hundred and fifty dollars, or as much thereof as may be necessary, is hereby appropriated to pay for distributing the same, which shall be done by mail.

Sec. 2. Be it further enacted, That the following sums be also appropriated for the purposes mentioned, to wit:

For the purchase of blank books, in order to comply with the fourth section of the direct-tax law in relation to the abstract of landtitles to be furnished the Comptroller's office, one hundred and ninety-eight dollars;

For the hire of two clerks six months, to prepare abstracts, seven hundred dollars;

For postage for State Department, two hundred dollars;

For postage for Comptroller's office, two hundred dollars;

For pay of expressmen to carry the proclamation of the Governor convening the Legislature in extra session, four dollars per day each;

For amount due Fleeson and Palmer, for publishing in the American Flag, 1847, the laws of Texas relating to elections, and orders of elections in English and Spanish, fifty dollars;

To pay for publishing proclamation of the Governor ordering elections for seat of government, for judges of eighth and twelfth districts, and general elections for county officers, also declaring Austin the seat of government, and ordering election in fourth senatorial district, and convening the Legislature in extra session, two thousand dollars.

Sec. 3. Be it further enacted, That this act take effect from and after its passage.

Approved, September 5, 1850.

CHAPTER XXXI.

An Act to change an Appropriation therein named, and appropriating the same for the Contingent Expenses of the Extra Session of the Legislature, for the year 1850.

Section 1. Be it enacted by the Legislature of the State of Texas, That so much of the unexpended appropriation for pay and mileage of the members of the third Legislature, as may be necessary, be and is hereby appropriated to meet the contingent expenses of the present extra session, and that the same be transferred on the books of the Comptroller, to the credit of the appropriation.

Sec. 2. Be it enacted, That this act take effect and be in force from and after its passage.

Approved, September 5, 1850.

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CHAPTER XXXII.

An Act to amend an Act entitled an Act to incorporate the City of Austin, passed May 11, 1846.

Section 1. Be it enacted by the Legislature of the State of Texas, That the city council shall have power to levy and collect a tax of one-fourth of one per cent., on all property within the limits of said city, both personal and real; provided, that the revenue so collected shall be applied to no other purpose than that of the cleaning and improvement of the streets, sidewalks, alleys, etc.

Sec. 2. Be it further enacted, That it shall not be lawful to summons the citizens residing within the limits of the same, to work on any road beyond the city.

Sec. 3. Be it further enacted, That all laws, and parts of laws contravening the provisions of this act be, and they are hereby repealed; and that this act shall take effect and be in force from and after its passage.

Approved, September 5, 1850.

## CHAPTER XXXIII.

## Joint Resolution.

Whereas, Various tribes and parts of tribes of Indians have emigrated from the territory of the United States and have intruded themselves upon the territory of this State against the wishes, and greatly to the annoyance and injury of the citizens thereof, greatly retarding the settlement of the country, and very materially and injuriously affecting the general prosperity of the State by inciting the wild Indians through an illicit traffic carried on with them, and by other and more direct means to kill and plunder our frontier settlements and by perpetrating the same offences themselves, sometimes openly and without disguise, but mostly upon the credit of the wild Indians; and

Whereas, it is believed by those who are most familiar with, and best informed in regard to our Indian relations, that the removal of the intruding Indians referred to, from amongst those properly belonging to this State, and their return and all further intercourse between them being prevented, would be followed by most salutary results greatly tending to secure peace and permanent quiet to our frontiers; but which cannot be expected while they are allowed to remain, and such trade and intercourse is permitted to be continued: Therefore,

Be it resolved by the Legislature of the State of Texas, That the Governor of the State be and he is hereby requested to demand of the Government of the United States, the immediate removal beyond the limits of this State of all Indians who have emigrated from any of the States or Territories of the United States and intruded upon any part of the territory of this State, and that efficient measures be adopted by said government to prevent their return at any time hereafter; and that this resolution be in force and take effect from and after its passage.

Approved, September 5, 1850.

## CHAPTER XXXIV.

An Act to incorporate Lockhart Academy, in the County of Caldwell.

Section 1. Be it enacted by the Legislature of the State of Texas, That Wm. Larremore, Lewis C. Sims, J. P. [I. J.?] Goode, Marcus Trumble and John Montgomery, be and they are hereby

incorporated a body politic, under the name and style of the Trustees of Lockhart Academy, capable of suing and being sued, of pleading and being impleaded, of holding property, either real, personal or mixed, of selling and conveying the same at pleasure, of having a common seal, and of doing and performing whatever else that may be proper and necessary to be done for the advancement of said institution, not contrary to the laws and constitution of the State.

Sec. 2. Be it further enacted, That this charter and privilege shall extend to the said trustees, and their successors in office, as long as they confine the benefit of the same to the advancement of the sciences and the promotion of useful knowledge; which institution shall be alike accessible to all, without regard to opinions of religion or politics.

Sec. 2. Be it further enacted, That the trustees, for the time being, shall have full power to enact by-laws, rules and regulations for the government of said academy, as may seem to them necessary for that object.

Sec. 4. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, September 5, 1850.

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#### CHAPTER XXXV.

An Act to change the Names of Helen Bass and Clara Bass, to that of Helen Menard and Clara Menard, on certain Conditions.

Section 1. Be it enacted by the Legislature of the State of Texas, That the names of Helen Bass and Clara Bass, children of Mrs. Rebecca Bass, formerly, now the wife of Mishell B. Menard, be and the same are hereby changed to that of Helen Menard and Clara Menard, upon condition that the said Mishell B. Menard shall execute, according to law, an act adopting said Helen and Clara as his children and heirs.

Sec. 2. Be it further enacted, That this act take effect from and after its passage.

Approved, September 5, 1850.

## CHAPTER XXXVI.

## An Act to incorporate the San Antonio Railroad Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That S. A. Maverick, Gideon Lee, L. G. Capers, John D. Groesbeeck, Nathaniel Lewis, I. A. Paschal, Thos. J. Devine, Francis Gilbeau, Thos. J. Perriman, B. Calaghan, J. J. Giddings, Volney E. Howard, John James, B. E. Edwards, John Twohig, Ludwig Colquhoun, J. O. Meusebach, O. Evans, J. H. Beck, Rob't S. Neighbors, A. Lockwood, W. H. Merriwether, Enoch Jones, and their associates and successors, be and they are hereby enacted, and established a body corporate and politic, under the name of the San Antonio and Mexican Gulf Railroad, with capacity in said corporate name, to make contracts, to have succession and a common seal, to make by-laws for the government and the regulations of the affairs, to sue and be sued, to plead and to be impleaded, to grant and receive, and generally to do and perform all such act as may be necessary or proper for, or incident to the fulfilment of its obligations, or maintenance of its rights under this act, and in accordance with the constitution of the State.

Sec. 2. That the said company be, and is hereby invested with the rights of locating, contracting, owning, and maintaining a railway, commencing at any suitable point on the Gulf between Galveston and Corpus Christi, and thence running by such course and to such point at, or near the city of San Antonio, as said company shall deem most suitable, with the privilege of making, owning, and maintaining such branches of said railway, as they may deem most expedient.

Sec. 3. That the parties named in this act, or a majority of them, with such persons as they may associate with themselves for this purpose, are hereby appointed commissioners, and invested with the rights of forming and organizing said company, and of exercising the powers of directors until directors are chosen, when the powers of the commissioners shall cease.

Sec. 4. That the capital stock of said company shall be divided into shares of one hundred dollars each; each share entitling the owner thereof to one vote in person, or by proxy at all meetings of the company, and the shares shall be deemed personal estate, and shall be transferable by any conveyance in writing recorded either by the treasurer in books kept by him for that purpose at his office, or by any officer duly authorized by the directors, in books kept by him at such other place, as the direc-

tors may appoint, such transfers as are recorded in any other place, being within thirty days communicated to the treasurer and by him entered on his books.

Sec. 5. The immediate control and direction of the affairs of the company shall be vested in a board of not less than thirteen directors; said directors shall elect one of their own number to be president of the company; the first board of directors shall be chosen by the persons named in this act, and such persons as they may associate with themselves for that purpose; said election shall be held in the city of San Antonio, and at such time as the persons named in this act, or a majority of them with their associates shall determine, the directors thus elected by the stockholders; no person shall [be] eligible to the office of director, unless a subscriber or owner of at least three shares of the capital stock; the directors shall have power to fill any vacancy in their body arising from non-election or other cause; they shall have power to appoint a clerk, treasurer, or any such other officers or agents as they may deem necessary, and prescribe and require bonds for the faithful performance of their duties; they may make all necessary rules and regulations for the holding of meetings, and all other lawful things they may deem proper for the carrying out the provisions of this charter, and business of the company; they shall keep or cause to be kept correct records of all meetings of the directors and company, and accurate books and accounts of the receipts and expenditures of the company, and all other books and accounts necessary and proper to be kept by such a company; a majority of the board of directors shall have the power of a full board, and all conveyances and contracts executed in writing, signed by the President and counter-signed by the treasurer, or any other officer duly authorized by the directors, under the seal of the company, and in pursuance of a vote of the directors, shall be valid and binding; and the book shall be open to inspection of stockholders.

Sec. 6. That the directors shall have power to dispose of the shares in said capital stock, in such manner and on such terms, as they may deem best for the interest of the company; and any agreement in writing, whereby any person shall become a subscriber to the capital stock of said company, may be enforced against him according to its terms: if any subscriber shall fail to pay any amount due upon shares, subscribed for by him according to the terms of his subscription, the directors may after twenty days public notice, sell at public auction, the shares subscribed for by said delinquents, and transfer to the purchaser such shares; if the proceeds of the sale shall not be sufficient to pay the amount

due with interest and charges, such delinquent shall be held liable to the company for the deficiency, and if the proceeds shall exceed the amount so due with interest and charges, he shall be entitled to the surplus.

Sec. 7. It shall be lawful for the company to purchase and hold any land that may be necessary for the purpose of locating, constituting and maintaining said Rail-way; with all necessary depots and other buildings, and may by their engineers and agents, enter upon and take possession of all such lands as may be necessary for the locating, constructing and maintaining said rail way, and if they shall not be able to obtain such lands by agreement with the owner; they shall pay for the same such amount as shall be determined in the manner provided for in the following section; the land so taken for the rail road shall not exceed fifty yards in width, and for depots and buildings only such further width as may be necessary.

Sec. 8. That any persons from whom land has been taken for the purpose set forth in the preceding section may apply to the district court of the county wherein said land is situated, for the appointment of appraisers, and said court after proof that the President of the company has been served with a notice describing the land, ten days before the holding of the court, the court shall thereupon appoint three disinterested free holders, citizens of the county, who shall appoint a time and place to hear the application; and the company to whose agent or President a reasonable notice shall be given by the court of said time and place and said free holders after being sworn shall after hearing the parties, determine the amount of compensation as aforesaid, and make return of their award to said court at its next term, and said award may be confirmed or for any sufficient reason rejected by said court in the same manner as awards by arbitrators, under a rule of court, and if confirmed by the court, judgment shall issue thereon as in other cases; in determining the amount of compensation to be paid as aforesaid said free holders shall be governed by the actual value of the land at the time it was taken, taking into consideration the benefit or injury done to other neighboring land of the owner by the establishment of said rail way; if in any case the amount found by the arbitrators shall not exceed the sum proved to have been offered by the company to the owner prior to his application to the court, the owner shall pay the cost of the proceedings, otherwise the company shall pay the same.

Sec. 9. That said company may acquire by purchase, donation or in payment of stock, such real estate as the directors shall think desirable for the purpose of aiding in the construction or



maintenance of said road, and such real estate acquired by the company, may be alienated or mortgaged by a vote of the majority of the directors, for the constructing or maintaining said rail way; said alienation or mortgage shall be signed in the name of the President and countersigned by the treasurer.

Sec. 10. That said company shall have power to borrow money on their bonds or notes, at such rates as the directors shall deem expedient: provided, however, that nothing in this act shall be construed to confer banking privileges of any kind.

Sec. 11. That upon the written request of one-fourth of the stockholders, the President of the company shall call a special meeting of the directors; and upon the written request of said one-fourth of the stockholders, an election shall be held for directors; and a vote of two-thirds of the stockholders shall be sufficient to remove the directors, and appoint others in their stead, at any time before the expiration of the period for which said directors were originally elected.

Sec. 12. That the mayor and aldermen of the city of San Antonio be and they are hereby authorised to subscribe to the capital stock of said company for said city, to an amount not to exceed fifty thousand dollars, as also such incorporated towns through which said railway may pass, inclusive of the town, if any, that may be its terminus on the gulf; and to issue bonds bearing interest, or otherwise to pledge the faith of said city or towns to pay for the same; and the chief justice and county commissioners of the several counties through which the railway may pass, shall be and they are hereby authorised to subscribe to the capital stock of said company for their respective counties, to an amount not to exceed fifty thousand dollars, and to issue bonds bearing interest, or otherwise to pledge the faith of their respective counties to pay the same: provided, that the chief justice and county commissioners of said counties shall not make such subscription unless two-thirds of the qualified electors of said county or counties, at an election to be held for that purpose, shall vote in favor of such subscription being made; and the chief justice of any of such counties may order such election to be held, and shall give notice of the time and object of such election, by causing notice thereof to be posted up in each precinct of the county, at least thirty days before the holding of such election; said election to be conducted in the manner regulating county elections, so far as the same may be applicable: provided also, that said mayor and aldermen of the city of San Antonio, and the towns upon the line and at the terminus of said railway on the gulf, shall not make such subscriptions unless two-thirds of the electors of said city

or towns qualified to vote for town or city officers, at an election to be held for that purpose, shall vote in favor of such subscription being made; and the mayor of said city or towns may order such an election to be held, and shall give notice by publication in the newspaper published in the city or town, or by notice posted up in the precincts of said city or town, for at least twenty days previous to such election being held; and said elections shall be conducted in the same manner regulating the respective city or town elections, so far as the same may be applicable: provided further, that where any such subscriptions shall be made, and bonds thereof be issued, by the mayor and aldermen of any of said towns or city, or by the chief justice and county commissioners of any of said counties, it shall be their duty, respectively, to provide for the punctual payment of the interest that may from time to time become due upon the same, and for the payment of the principal thereof by levying and collecting a tax on the real and personal property in the city, town or county for which said subscription shall be made and bonds issued, which tax shall not be less than ten cents nor more than fifty cents on each and every one hundred dollars taxable property in said city, town or county, and shall be assessed and collected and paid into the treasury of said city, town or counties by which it is levied in the same manner the city or county tax in such city or towns or counties is assessed and collected, which tax shall be continued from year to year, until the whole amount of the principal and interest due on said bonds shall have been fully paid and discharged, and when collected, after deducting therefrom the expenses of assessing and collecting, shall first be applied to the payment of the interest due on such bonds, and the remainder shall be applied to the payment of the principal on such bonds.

Sec. 13. That all dividends on the capital stock of said railway company that may accrue to said city, towns, or either of said counties, shall be appropriated to the payment of the principal and interest of any bonds that may be owing by them respectively, and that may have been executed under the provisions of this act, until the whole of said principal and interest shall have been discharged; and the said railway company is hereby authorized to pay the same accordingly.

Sec 14. That it shall be the duty of said company, whenever any State or county road now established, shall be crossed by said railway. to make and keep in repair good and sufficient causeways at such crossing; and in all cases where any person shall own land on both sides of the railway, and there shall be no other convenient access from one point to the other, such own-

er shall have the right of passage free of cost, at all reasonable times, crossing said railway; and if said company shall cross any navigable stream, they shall not interfere with the navigation of the same.

Sec. 15. That if any person shall negligently or designedly injure or destroy any of the fixtures, buildings, machines or improvements of said company, or any portion of the railway or its branches, he shall be liable to indictment for such offence or offences, and, upon conviction, he shall be punished by fine and imprisonment, at the discretion of the court, and shall also be liable to the company, in addition, for damages.

Sec. 16. That said company shall have the right to charge and receive such rates and prices for the transportation of passengers and freight, as shall not exceed eight cents per mile for passengers, and for freight, not exceeding seventy-five cents per one hundred pounds for every hundred miles the same may be carried: provided, however, that the State shall have the right to regulate the charge for carrying the mails.

Sec. 17. That the company shall after the completion of the rail way sell and alienate all lands held by said company, save such as shall be necessary for the maintenance of the rail way, within the following periods, one third of said lands within five years, one third within ten years and the remainder within fifteen years after the completion of said rail way, and on failure by the company to alienate within the time limited, the Comptroller of the State may after public notice in a newspaper published at the seat of government and in the counties where the land may lie, cause said lands to be publicly sold for cash, the proceeds of said sale after deducting expenses of sale to be paid to the authorised agents of the company.

Sec. 18. That if said rail way is not completed within one year from the first of November, 1850, and if at least twenty miles are not in running order within three years from its commencement then this charter shall be null and void.

Approved, September 5, 1850.

## CHAPTER XXXVII.

An Act to authorize and require the County Courts to issue unconditional Certificates in certain Cases.

Section 1. Be it enacted by the Legislature of the State of Texas, That the county courts of the several counties in this State, are hereby authorized and required to issue unconditional certificates in all cases to bona fide claimants, where the party applicant has previously obtained a conditional one; and make the same proof that has been required in all such cases under the constitution and laws of the Republic, or the State of Texas.

Sec. 2. Be it further enacted, That the county courts shall be entitled to the same fees, and governed in all respects by former laws, as in such cases heretofore.

Approved, September 5, 1850.

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CHAPTER XXXVIII.

An Act supplementary to an Act entitled an Act to secure to all actual Settlers within the Limits of the Colony granted to Peters and others, commonly known as Peters' Colony, the Lands to which they are entitled as Colonists.

Section 1. Be it enacted by the Legislature of the State of Texas, That the certificates issued by the commissioner for Peters' colony, may be located on any vacant land within the limits of said colony not otherwise appropriated, as other headright certificates are located; and the same laws relative thereto shall govern the surveyors and other officers in the discharge of their official duties, in relation to the surveying, recording and patenting the same.

Sec. 2. Be it further enacted, That any certificate which has been, or may be issued contrary to the true intent and meaning of said act, to which this is supplementary; and each and every survey which has been or may be made in virtue of such certificate, and each and every patent which may be issued in virtue thereof, and every sale and transfer of said unauthorized certificates, and of the land located under the same. is and shall be null and void; and that this act take effect from and after its passage.

Approved, September 6, 1850.

## CHAPTER XXXIX.

## An Act to create the County of Freestone.

Section 1. Be it enacted by the Legislature of the State of Texas, That all that territory comprised within the following limits, to wit: beginning at the upper corner of Leon county, on the Trinity river; thence with the north-west line of said county, south 60 deg. west  $29\frac{1}{2}$  miles; thence north 30 deg. west  $31\frac{1}{2}$  miles; thence north 60 deg. east to the Trinity river; thence down the Trinity river with its meanders, to the place of beginning; shall be constituted into a new county, and be called Freestone.

Sec. 2. Be it further enacted, That William S. Adams, Emanuel Clements, W. G. Harris, Leander Walker, ——— Simmons, be and they are hereby appointed commissioners, with authority to select not exceeding three places, to be put in nomination as the county seat of said county, (one of which shall be at the centre of said county, to be ascertained by actual survey, which survey the said commissioners are hereby authorized to have made at the expense of the county, and the other places shall be within five miles of the centre of said county,) and the said commissioners shall then proceed to order an election between the different places put in nomination for the county seat of said county, by giving a written notice to be posted up, at not less than five places in said county for the term of one month, which notice shall specify the different places put in nomination, and the election be governed according to the laws regulating elections generally, and the returns made to commissioners herein appointed, at a day and place to be named in the writs of election, not to exceed ten days from and after the day of election; and said election returns shall not be opened by less than a majority of said commissioners; then if any place nominated at, or within three miles of the centre, shall receive a majority of all the votes polled, it shall be duly declared to be the county seat of said county, by said commissioners; but if no place receive a majority of all the votes given, the said commissioners shall put in nomination, the two places that receive the highest number of votes at the first election, giving fifteen days notice of said election by posting up notices, at not less than five public places in said county, the result of which shall be ascertained as in the first election, provided for in this act; and the place receiving the highest number of votes, shall be declared by said commissioners the county seat of said county; and the said commissioners are

hereby required to order the first election contemplated by this act, to be held on the first Monday in December next, or as soon as this act shall come to their knowledge.

Sec. 3. Be it further enacted, That the commissioners herein appointed, are required to take into consideration in the nomination of places for said county seat, donations in land or in money, as well as eligibility of situation and advantage of timber and water.

Sec. 4. Be it further enacted, That should said commissioners select a tract of vacant and unappropriated land, on which to locate said county seat, they shall proceed to condemn to use of [the] county, a quantity of not more than three hundred and twenty acres of the same; and this act shall be a sufficient authority for any authorized surveyor to survey for said county the amount of land pointed out by said commissioners, not to exceed three hundred and twenty acres, in a square form, if pre-existing lines will admit of that shape; and when said commissioners, their successors or agents, shall present to the Commissioner of the General Land Office, the receipt of the State Treasurer for the sum of fifty cents per acre in gold or silver, for the amount of land contained in the survey authorized by this act to be made, then the said Commissioner of the General Land Office shall issue a patent to the county of Freestone for said land.

Sec. 5. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, September 6, 1850.

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## CHAPTER XL.

An Act supplementary to an Act entitled an Act to reduce into one Act, and to amend the several Acts relating to the Establishment of a General Landoffice, passed December 14, 1837.

Section 1. Be it enacted by the Legislature of the State of Texas, That the time limited for the payment of government dues on titled land, by the twenty-fourth section of the act to which this is supplementary, is hereby extended until the first day of January, 1852, with the privileges, and under the restrictions, contained in said section.

Sec. 2. Be it further enacted, That the Commissioner of the General Landoffice is hereby authorized to receive the government dues on the lands referred to in the first section of this act; and that this act take effect and be in force from and after its passage.

Approved, September 6, 1850.

## THE STATE OF TEXAS.

I, JAMES W. WEBB, Acting Secretary of State, do certify that the second session of the third Legislature of said State, commenced its session at Austin on Monday, the twelfth day of August, in the year one thousand eight hundred and fifty, and adjourned on Friday the sixth day of September, of the same year.

And I further certify, that the Acts and Joint Resolutions contained in this Volume, are true copies taken from the original laws deposited in the Department of State, with which they were carefully compared.

Given under my hand and seal of State, at the City  
[L.S.] of Austin, the first day of October, A. D. one thousand  
eight hundred and fifty.

JAMES W. WEBB.

N. B.—The words in brackets were inserted by the Secretary of State, in comparing the laws with the originals, supposing them to be omissions in enrolling the bills.



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**LAWS**  
**OF**  
**THE THIRD LEGISLATURE**  
**OF**  
**THE STATE OF TEXAS**  
  
**VOLUME III.—PART IV.**

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**PUBLISHED BY AUTHORITY.**

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**AUSTIN.**  
**1850**

\*.\* For more convenient reference, the laws contained herein are severally designated by chapters and numbers in regular series.

\*.\* The laws of the regular session of the third Legislature, heretofore published, are divided into two parts—the first embracing the general, and the second the special laws. Those of the extra or second session, are published as Part III of volume III. Those of the second extra, or third session, contained herein, are therefore published as Part IV of volume III.

\*.\* Those laws signed by the Governor, are designated by the word Approved — and those not signed by him, are said to be Passed.

VOLUME III.—PART IV.

GENERAL AND SPECIAL LAWS.

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CHAPTER I.

An Act to legalize the acts of the County Surveyors of the County of Cass.

Whereas the County Court of the County of Cass failed or neglected to comply with the requirements of an act entitled "an act to give to each corporate county in this State its own County Surveyor, map and records," approved March 20, 1848, but proceeded to order elections for the office of County Surveyor: and whereas the Surveyors so elected have proceeded to do a great deal of surveying, which, if not legalized, will operate greatly to the prejudice of the citizens of said County—Therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That all the acts of the said surveyors of the county of Cass, elected as aforesaid, be and the same are hereby rendered as legal, valid and binding in all respects as though the said act had been fully complied with.

Sec. 2. Be it further enacted, That the map of Cass county, drawn by A. F. Halcomb, in 1848, and now in the General Land Office, shall have the same legal force and effect as though the same had been returned to said office in accordance with the provisions of said act of the 20th March, 1848.

Sec. 3. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, November 25, 1850.

## CHAPTER II.

An Act accepting the Propositions made by the United States to the State of Texas, in an Act of the Congress of the United States, approved the 9th day of September, A. D. 1850, entitled "an Act proposing to the State of Texas the Establishment of her Northern and Western Boundaries, the Relinquishment by the said State of all Territory claimed by her exterior to said Boundaries and of all her Claims upon the United States, and to establish a Territorial Government for New Mexico."

Whereas, said propositions are contained in the first section of said act, in the following words, to wit: "Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following propositions shall be, and the same hereby are, offered to the State of Texas, which, when agreed to by the said State, in an act passed by the General Assembly, shall be binding and obligatory upon the United States and upon the said State of Texas: provided, the said agreement by the said General Assembly shall be given on or before the first day of December, eighteen hundred and fifty.

First: The State of Texas will agree that her boundary on the north shall commence at the point at which the meridian of one hundred degrees west from Greenwich is intersected by the parallel of thirty-six degrees thirty minutes north latitude, and shall run from said point due west to the meridian of one hundred and three degrees west from Greenwich; thence her boundary shall run due south to the thirty-second degree of north latitude; thence on the said parallel of thirty-two degrees of north latitude to the Rio Bravo del Norte; and thence with the channel of said river to the Gulf of Mexico.

Second: The State of Texas cedes to the United States all her claim to territory exterior to the limits and boundaries which she agrees to establish by the first article of this agreement.

Third: The State of Texas relinquishes all claim upon the United States for liability of the debts of Texas, and for compensation or indemnity for the surrender to the United States of her ships, ports, arsenals, customhouses, customhouse revenue, arms and munitions of war, and public buildings with their sites, which became the property of the United States at the time of the annexation.

Fourth: The United States in consideration of said estab-



lishment of boundaries, cession of claim to territory, and relinquishment of claims, will pay to the State of Texas, the sum of ten millions of dollars in a stock bearing five per cent. interest, and redeemable at the end of fourteen years, the interest payable half yearly at the Treasury of the United States.

Fifth: Immediately after the President of the United States shall have been furnished with an authentic copy of the act of the General Assembly of Texas accepting these propositions, he shall cause the stock to be issued in favor of the State of Texas, as provided for in the fourth article of this agreement: Provided also, That no more than five millions of said stock shall be issued until the creditors of the State holding bonds and other certificates of stock of Texas, for which duties on imports were specially pledged, shall first file at the Treasury of the United States, releases of all claim against the United States for or on account of said bonds or certificates, in such form as shall be prescribed by the Secretary of the Treasury and approved by the President of the United States: Provided, That nothing herein contained, shall be construed to impair or qualify anything contained in the third article of the second section of the joint resolution for annexing Texas to the United States, approved March first, eighteen hundred and forty-five, either as regards the number of States that may hereafter be formed out of the State of Texas, or otherwise:

Therefore, 1st. Be it enacted by the Legislature of the State of Texas, That the State of Texas hereby agrees to and accepts said propositions; and it is hereby declared that the State shall be bound by the terms thereof, according to their true import and meaning.

2d. That the Governor of this State be, and he is hereby, requested to cause a copy of this act, authenticated under the seal of the State, to be furnished to the President of the United States by mail as early as practicable; and also a copy thereof certified in like manner, to be transmitted to each of the Senators and Representatives of Texas, in Congress; and that this act take effect from and after its passage.

Approved, November 25, 1850.

## CHAPTER III.

## An Act to incorporate Fayette Academy, in the County of Fayette.

Section 1. Be it enacted by the Legislature of the State of Texas, That T. D. Fisher, G. A. Kerr, U. Gregory, John R. B. Baylor, J. M. Hill, J. Izzard, S. S. Munger, P. J. Shaver, John Anderson, A. P. Manly, and D. Myers, be, and they are hereby incorporated a body politic, under the name and style of the Trustees of Fayette Academy, capable of suing and being sued, of pleading and being impleaded, of holding property, either real, personal or mixed, of selling and conveying the same at pleasure, of having a common seal, and of changing the same at pleasure, and of doing and performing whatever else that may be proper and necessary to be done for the advancement of said institution, not contrary to the constitution and laws of the State.

Sec. 2. That this charter and privilege shall extend to said trustees and their successors in office, as long as they confine the benefit of the same to the advancement of the sciences, and the promotion of useful knowledge to the rising generation, which institution shall be accessible alike to all, without regard to opinions of religion or politics.

Sec. 3. That the said trustees, and their successors in office, shall have full power to enact by-laws, rules and regulations for the government of said academy as may seem to them necessary for that object, to fill all vacancies which may occur in said board of trustees, to elect such officers as may be necessary for the efficient discharge of their duties, and that six members shall form a quorum for the transaction of business.

Sec. 4. That this act take effect and be in force from and after its passage.

Approved, November 26, 1850.

## CHAPTER IV.

## An Act to permanently locate the Seat of Justice of Denton County.

Section 1. Be it enacted by the Legislature of the State of Texas, That the seat of justice of Denton county be permanent-

ly located at the residence of Alexander E. Cannon, on Hickory Creek, in said county, and that all courts which by law are to be held at the county seat, shall be held there, and that the clerks and other officers, who by law are to keep their offices at the county seat, shall remove them to said seat of justice, and said seat of justice shall be called Alton; and that this act take effect from and after the first day of February next.

Approved, November 26, 1850.

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## CHAPTER V.

### An Act to incorporate Rising Star Chapter, Number Nine.

Section 1. Be it enacted by the Legislature of the State of Texas, That the officers and members of Rising Star Chapter, Number Nine, of San Augustine county, Texas, and their successors be, and they are hereby declared to be a corporate and body politic, by the name and style of the Rising Star Chapter, Number Nine, of Royal Arch Masons, and by that name they and their successors shall and may at all times hereafter be capable in law to have, receive, and retain any estate, real and personal, by gift, purchase, devise, or bequest, or such estate at their pleasure to transfer and dispose of in such manner as they may think proper: provided that said corporation shall not at any time hold, or possess real estate exceeding in value the sum of twenty thousand dollars.

Sec. 2. The corporation by the name and style aforesaid, shall be capable in law to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in all or any courts of this State, and before all or any judge, officers and persons whatsoever, in all and singular actions, matters and things whatsoever.

Sec. 3. The said corporation may have a common seal for their use, and the same at their will and pleasure to change, alter and make anew from time to time, as they may think best, and in general have and exercise all such rights, privileges and immunities as by law are incident to, and necessary for corporations of a similar character; and that this act shall take effect from its passage.

Approved, November 26, 1850.

## CHAPTER VI.

An Act to be entitled an Act to legalize a Copy of the Records in the Office of the County Surveyor of the County of Washington.

Section 1. Be it enacted by the Legislature of the State of Texas, That the chief justice and any two county commissioners of Washington county, are hereby authorized and required to examine a copy of the records in the office of the surveyor of said county, made by D. Parker, county surveyor, and if they find the same correctly transcribed, they shall certify to the fact in the back of the book, under their hands and the seal of said county.

Sec. 2. That said book so examined and certified to, and certified copies therefrom, shall be received in evidence by the courts of the country, and have all the force and effect that the original copies therefrom would have.

Approved, November 27, 1850.

## CHAPTER VII.

An Act to authorize and require the Commissioner of the General Land Office to issue a Patent to William Shipp, of Sabine County, for one League of Land.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and is hereby authorized and required to issue a patent to William Shipp, of Sabine county, for one league of land, upon the payment of all government dues thereon, in accordance with the provisions of law heretofore made; and that this act take effect from its passage.

Approved, November 27, 1850.

CHAPTER VIII.

An Act for the Relief of Lorenzo D. Henderson, and the Heirs of William Donoho, deceased, and Charles Ames.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue an unconditional certificate to Lorenzo D. Henderson for six hundred and forty acres of land; also, a certificate for one league and labor of land to the heirs of William Donoho, deceased; and a certificate to Charles Ames for eleven hundred and fifty-six acres of land, to be located upon any of the vacant and unappropriated land of this State.

Sec. 2. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved, November 28, 1850.

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CHAPTER IX.

An Act to repeal in Part, an Act entitled an Act to incorporate the Trinity Plank Road Company, approved September 4, 1850.

Section 1. Be it enacted by the Legislature of the State of Texas, That the proviso in the second section of said act, which reads as follows: "That said road shall be constructed above high-water mark," be and the same is hereby repealed; and that this act take effect from and after its passage.

Approved, November 28, 1850.

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CHAPTER X.

An Act for the Relief Reuben R. Brown.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue a certificate

for one league and labor of land, the same being his headright; and also, a certificate for twelve hundred and eighty acres of land, for his military services in the army of Texas, in 1835 and 1836, to Reuben R. Brown.

Sec. 2. Be it further enacted, That said certificates may be located upon any of the vacant and unappropriated land of this State, and that the Commissioner of the General Land Office be, and he is hereby required, upon the return of the field notes, to issue patents to the said Brown, or his legal representatives, upon his paying the legal fees and government dues thereon.

Approved, November 30, 1850.

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## CHAPTER XI.

An Act appropriating Ten Thousand Dollars, or so much as may be necessary for the Payment of the Mileage and per diem Pay of the Members and Officers of the Second Extra Session, Third Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of ten thousand dollars, or so much thereof as may be necessary, in the Treasury not otherwise appropriated, be appropriated for the payment of the mileage and per diem pay of the members of the second extra session of the third Legislature, and the per diem of the officers attendant thereon; and that this act take effect and be in force from and after its passage.

Approved, November 30, 1850.

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## CHAPTER XII.

An Act to amend the second and seventh Sections of an Act entitled "an Act to organize the Supreme Court of the State of Texas," approved the 12th of May, 1846.

Section 1. Be it enacted by the Legislature of the State of Texas, That the second section of the act entitled, "an act to organize the Supreme Court of the State of Texas, approved the

12th May, 1846, be amended so as to read as follows; "Section 2nd. Be it further enacted, That the Supreme Court shall hold its sessions, once in every year at the city of Austin, in the county of Travis; once in every year at the city of Galveston, in the county of Galveston; and once in every year at the town of Tyler, in the county of Smith. That the causes decided in the district courts of the second, third, fourth, and eleventh judicial districts, when taken up, by appeal or otherwise, to the Supreme Court, shall be returnable to the Supreme Court sitting at the City of Austin. That the causes decided in the district courts of the first, seventh, tenth and twelfth, judicial districts, shall be returnable to the Supreme Court, holding its session in the city of Galveston. That the causes decided in the district courts of the fifth, sixth, eighth and ninth judicial districts shall be returnable to the Supreme Court holding its session at the town of Tyler, in the county of Smith: Provided, That the parties, or their attorneys may on filing an agreement for that purpose, with the clerk of any district court, in either of the judicial districts, direct the record, accompanied by a certified copy of the agreement, to be transmitted to the Supreme Court, holding its session, either in the City of Austin, the city of Galveston, or at the town of Tyler: Provided further, That all cases where land titles are involved, taken up from the district courts to the Supreme Court, when the State of Texas is a party, shall be returnable to the Supreme Court holding its session at the City of Austin. That the Supreme Court shall hold its session at the City of Austin on the second Monday in November in each and every year, and may continue in session six weeks, or until the business before the court is disposed of. At the city of Galveston, on the first Monday in January, and may continue in session ten weeks, unless the business before the court is sooner disposed of. At the town of Tyler, on the first Monday in April, and may continue in session until the first day of July, unless the business before the court is sooner disposed of. That all causes remaining on the docket, undisposed of, when this act goes into effect, which have been decided in the counties, included in the first, seventh, tenth, and twelfth judicial districts, shall be by the Clerk of the Supreme Court, transmitted to the Supreme Court holding its sessions at the city of Galveston. That the causes remaining on the docket, undisposed of, which were decided in the fifth, sixth, eighth and ninth judicial districts, shall be transmitted to the Supreme Court holding its sessions at the town of Tyler, unless the parties or their attorneys agree that the same

may be decided by the Supreme Court holding its sessions at the City of Austin.

Sec. 2. Be it further enacted, That the seventh section of the act entitled "an act to organize the Supreme Court of the State of Texas," approved the 12th of May, 1846, be amended so as to read as follows: "Section 7th. Be it enacted, That the Clerk of the Supreme Court shall keep an office at the City of Austin, at the city of Galveston and at the town of Tyler.—That said Clerk shall have power to appoint deputies under him, from whom he may require bonds for the faithful discharge of the duties of his office by written appointment under the seal of the court, which shall be filed in the records of the court, to whom he shall administer an oath faithfully to discharge the duties of his office, and for whose official acts he shall in all cases be responsible. That the Clerk of the Supreme Court shall appoint a deputy residing in the first, seventh, tenth, or twelfth judicial districts, who shall reside at the city of Galveston, and attend at the office of the Clerk of the Supreme Court. That he shall also appoint a deputy residing in fifth, sixth, eighth or ninth judicial districts, who shall reside at the town of Tyler, and attend at the office of the Clerk of the Supreme Court, and attend to, and discharge the duties of his office during the absence of the Clerk of the Supreme Court, or when the clerk is present, under his direction. That the Clerk of the Supreme Court, and his deputies shall have power to administer oaths in all cases incident to the discharge of the duties of his office.

Sec. 3. Be it further enacted, That this act take effect from and after its passage.

Approved, November 30, 1850.

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### CHAPTER XIII.

An Act to authorise the Clerk of the County Court of Navarro County, and the County Clerk of Tyler County, to transcribe into a bound Book, severally to be procured by them for that Purpose, all the Records and title Papers herein after mentioned, registered by the said County Clerks.

Section 1. Be it enacted by the Legislature of the State of Texas, That the clerk of the county court of Navarro county be required to transcribe all deeds of conveyance, and other



instruments of writing, recorded by him in his official capacity from the 17th day of August, 1846, to the thirty-first day of December, 1847, in a well bound book, to be furnished by him for that purpose.

Sec. 2. Be it further enacted, When said record is transcribed by them, or either of them, and approved by the county court respectively, shall have the same force and effect that the original record had, both in law and equity, and shall be preserved, and considered the record in his office of such documents recorded by him in the time above specified.

Sec. 3. Be it further enacted, That when said record is made in accordance with the first section of this act, and approved by the county court, the said clerks shall be paid out of any money in the county Treasury, of the counties of Navarro and Tyler respectively, not otherwise appropriated, ten cents for every hundred words so transcribed, to be transcribed, and this act to be in force from and after its approval by the Governor.

Approved, December 2, 1850.

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#### CHAPTER XIV.

##### An Act to incorporate the Brazos and Bernard Railway and Plank Road Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That a body politic and corporate, be, and the same are hereby created and established, under the name and style of the Brazos and Bernard Railway and Plank Road Company, with capacity to make contracts, to have succession, and a common seal, to make by-laws for its government, and in its corporate name to sue and be sued, to grant, and to receive, and generally to do and perform such acts and things as may be necessary and proper for, or incident to the fulfilment of its obligations, or maintenance of its rights under this act, and consistent with the provisions of the constitution of this State.

Sec. 2. That said company be, and is hereby established with the right of making, owning, and maintaining, a Railway or Plank Road from the Town of Brazoria, in Brazoria county, to the Bernard River.

Sec. 3. That R. J. Towns, William McMaster, Chesley Stringfellow, Patrick McGreal, Charles Leonard, John Sweeney, Senr., McNeil, Lumbert Mims, Joel Spencer, Manuel McCormic, Weekley, Weems, S. T. Alexander, Philip Dargin, and such other persons as they may associate with them for the purpose, are hereby appointed commissioners and invested with the right and privilege of forming and organizing the said company, of obtaining subscriptions to the capital stock, and distributing the shares thereof, and generally of taking such lawful measures to secure the effectual organization and successful operation of said company as they may deem expedient.

Sec. 4. That the capital stock of said company shall not exceed one hundred and fifty thousand dollars, and said stock shall be divided into shares of fifty dollars each, and the holders of said shares shall constitute said company, and each member shall be entitled to one vote, in person or by proxy, for each and every share he may own, and such shares of stock shall be transferable alone upon the books of the company, which books shall be kept open for the inspection of any stock holder who may wish to examine them at the office of the company in proper business hours.

Sec. 5. That the affairs and business of the said company shall be conducted and managed by a board of directors, not less than seven, nor more than eighteen, who shall be elected by the company at such time as the said commissioners may appoint, and annually thereafter: provided, that in case of failure so to elect at the stated time, the board of directors incumbent shall continue in office until there be an election, the time for which may be fixed by said board, whereof reasonable notice shall be given.

Sec. 6. That no person shall be eligible as a director, unless he be the owner of five shares of the capital stock. The said board shall elect a President from their number, fill vacancies, appoint from their number such officers as they may deem necessary, and require security for the faithful performance of their duties, also, to prescribe the time for the payment of instalments or assessments upon the stock and the amount of such instalments or assessments, to declare the forfeiture of such stock for non-payment, and to do, or cause to be done all other lawful acts, or things which they may deem necessary or proper in conducting the business of said company—a majority of said board of directors shall constitute a quorum for doing business. All instruments in writing, executed by the President and Secretary, under

the seal of the company, with the consent of the board of directors, shall be valid and binding.

Sec. 7. That if any person shall negligently or designedly injure or destroy any of the fixtures, buildings, machines, materials or improvements of the company, he shall be subject to indictment therefor, and on conviction may be punished by fine and imprisonment, and shall also be liable to said company in a civil action for damages.

Sec. 8. That the said board shall have power to elect an agent, who shall be a member of said company, and whose name as such shall be made known to the public, and by whom the business of the corporation may be conducted under the powers given.

Sec. 9. That said company shall have three years to commence said Railway or Road, and if it is not completed within six years from the passage of this act, this act shall be null and void at the expiration of said time.

Sec. 10. That this act shall take effect and be in force from and after its passage.

Approved, December 2, 1850.

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## CHAPTER XV.

### An Act for the Benefit of certain Persons therein named.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Auditor and Comptroller be, and they are hereby required to issue duplicates of the following described certificates: One certificate number 18, 2d class, issued to Clark L. Owen, for one hundred and two dollars, dated October the 18th, 1848; one certificate number 1035, 1st class, issued to James D. Owen, for six thousand and ninety dollars, Treasury Notes, (red backs) the par value of which amounted to one thousand five hundred and twenty-two dollars and fifty cents, and dated November the 9th, 1849; one certificate issued to William P. Smith, 2d class, number 283, for sixty dollars, and dated November the 12th, 1849.

Sec. 2. That the Comptroller be, and he is hereby required to

issue a duplicate of Treasury Warrant, number 3,335, issued to William J. Russell, on the sixth day of September, 1850, for forty-three dollars and twenty cents.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved, December 2, 1850.

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## CHAPTER XVI.

An Act to authorize the Settlers in Peters' Colony to intervene in Suit, or Suits, in reference to any Matters connected with said Colony Contracts, where they have an Interest.

Section 1. Be it enacted by the Legislature of the State of Texas, That any person or persons to whom certificates have been been, or may hereafter be issued by the commissioner, appointed under the provisions of an act, approved on the twenty-first day of January, 1850, entitled "an act to secure to all actual settlers within the limits of the colony granted to Peters and others, commonly known as Peters' Colony, the land to which they are entitled as colonists;" shall have the right to intervene, and make themselves parties to any suit, or suits, heretofore instituted, or that may hereafter be instituted, either by the contractors of said colony, their trustees, assigns, or legal representatives, or the State, in reference to the said colony contracts, or any interest connected with, or growing out of said contracts, and that the rights of any of said colonists, or persons to whom certificates have been issued as aforesaid, so intervening, shall be considered and adjusted, if the same are in any manner connected with the subject matter of the suit, and settled with the least delay compatible with the rights of the other parties, plaintiff and defendant.

Sec. 2. And be it further enacted, That in any suit, or suits, such as are mentioned in the first section of this act, if it can be ascertained that the rights of the parties intervening, can be adjusted and determined, without reference to the final question of right as between the original parties to the action, the court shall proceed to act upon the rights of said interveners, without awaiting the final hearing of the cause.

Sec. 3. And be it further enacted, That this act take effect and be in force from and after its passage.

Approved, December 2, 1850.

CHAPTER XVII.

An Act requiring the Commissioners appointed by an Act entitled "An Act creating the County of Hunt," approved, April 11th, 1846, to deliver up certain Documents and Moneys therein mentioned.

Section 1. Be it enacted by the Legislature of the State of Texas, That the commissioners appointed to locate the County Seat of Hunt County, by the above recited act, approved April 14th, 1846, be, and they are hereby required to deliver up to the chief justice and county commissioners of said county, at the February term of the County Court, in the year 1851, or as soon thereafter as practicable, all the records, papers, documents and moneys in their hands relative to lots in the town of Greenville, in Hunt county.

Sec. 2. Be it further enacted, That said chief justice, county commissioners, and county clerk of said county of Hunt, or their successors in office, shall proceed to sell the remaining lots in said town of Greenville, and to do and perform whatever may be necessary in finally settling the outstanding business of said town of Greenville, for which services the said chief justice, county commissioners and county clerk, shall be entitled to the same fees as in other similar cases are established by law.

Sec. 3. Be it further enacted, That the chief justice shall have power to institute suit on all notes heretofore drawn and payable to said commissioners for lots in said town of Greenville, as fully as though such notes had been executed to him; and that this act take effect from its passage.

Approved, December 2, 1850.

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CHAPTER XVIII.

An Act to amend an Act entitled an Act to Incorporate the City of New Braunfels.

Section 1. Be it enacted by the Legislature of the State of Texas, That the seventh section of the before recited act, shall henceforth be as follows: That a majority of the whole number of the city council shall form a quorum, with power to act, and

that no tax shall be levied by any meeting of the city council, which consists of less than a majority of the whole number elected.

Sec. 2. Be it further enacted, That taxes heretofore levied at any meeting of the city council of the City of New Braunfels, at which a majority of the elected members of the city council were present, are, and shall be binding and valid.

Sec. 3. Be it further enacted, That the seventh section of the act to which this is amendatory, is hereby repealed; and that this act take effect from and after its passage.

Approved, December 2, 1850.

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## CHAPTER XIX.

An Act for the Relief of John Beeman, John S. Beeman and James J. Beeman.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office of this State be, and he is hereby authorized and required to issue to the following named persons, patents to the following described surveys of land, made in the county of Dallas, and State aforesaid, upon the filing of the field-notes of said surveys, together with the certificates upon which said surveys were made, to wit: Survey number one, letter A, of three hundred and twenty acres of land, to John Beeman; survey number four, letter A, of three hundred and twenty acres of land, to John Beeman; survey number two, letter A, of three hundred and twenty acres of land, to John Beeman; survey number six, letter B, of three hundred and twenty acres of land, to John Beeman; survey number eight, letter A, of three hundred and twenty acres of land, to John Beeman, assignee of Henry C. Long; survey number five, letter A, of six hundred and forty acres of land, to James J. Beeman; survey number three, letter A, of three hundred and twenty acres of land, to John S. Beeman, and survey number six, letter A, of three hundred and twenty acres of land, to John S. Beeman.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved, December 2, 1850.

CHAPTER XX.

An Act for the Relief of Laanner Ward.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized to issue a certificate to Laanner Ward, for one league and one labor of land, as a headright to which said Laanner Ward is entitled, by virtue of her emigration to the Republic of Texas with her family, previous to the first day of March, A. D., 1836.

Sec. 2. That said certificate may be located, surveyed and patented, according to the laws regulating first class claims for headrights to lands; and that this act take effect and be in force from and after its passage.

Approved, December 2, 1850.

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CHAPTER XXI.

An Act to Incorporate the Shelby University.

Section 1. Be it enacted by the Legislature of the State of Texas, That Robert G. Cartright, Nicholas H. Darnell, Archibald W. O. Hicks, William S. Smith, J. D. Norton, Amon Lewellen, Leonard Straw, John L. Bridges, J. Grady, M. Sinclair, H. Cozart, Robert Turner, J. T. Booth, Robert McWilliams, James Truit, Harrison Davis, Nathan Davis, J. R. R. Graves, A. M. Truit, A. McLemore, Thomas Carroll, W. A. Holland, J. J. Straw, J. J. Cravens, M. K. Withers, W. P. Landrum, James Baird, William Hall, C. T. Hilliard, Samuel Farrer, and their associates, are hereby constituted a body politic and corporate, under the name and style of the Trustees of the Shelby University, to be located in the town of Shelbyville, in Shelby county, capable of suing and being sued, pleading and being impleaded, of holding property real, personal and mixed at pleasure, and of doing and performing all things whatsoever that they may deem beneficial to said institution not contrary to the constitution and laws of the State.

Sec. 2. Be it further enacted, That this charter and privilege shall extend to each individual who may hereafter subscribe the sum of fifty dollars to said institution.

Sec. 3. Be it further enacted, That the sum of fifty dollars shall constitute a share holder in said institution, for which a receipt shall be issued by the Treasurer, who may be elected by the share holders, and which shall be transferable by said individual, and the name of the person transferring his share, shall be erased and the name of the purchaser inserted in the record of the Secretary of said institution, when the purchaser of said share shall be entitled to all privileges, rights, and immunities of other members.

Sec. 4. Be it further enacted, That there shall be twelve Trustees of said institution elected annually by the shareholders of said institution, at such time as they may designate by a majority of the shareholders, each share of fifty dollars entitling the holder to one vote, and the officers of the same shall consist in a President, a Secretary and a Treasurer: Provided, That if from any cause any of said officers and Trustees shall not be elected at the annual meeting, that the old Trustees shall perform their functions until their successors shall be elected, which may be done in that case at any time that the said Trustees may elect, after having given notice to the share-holders, and it shall be competent for said board to fill vacancies at any time after they occur.

Sec. 5. Be it further enacted, That the President of the board shall have power to call a special meeting of the Trustees, when he may deem it necessary, and a majority of said board shall constitute a quorum to transact business, and a majority of the Trustees shall have power to adopt any resolution or measure, and in case the President, or any other officer shall be absent, the vacancy or vacancies shall be filled for the time being by the Trustees present from their own number.

Sec. 6. Be it further enacted, That the board of Trustees, or a majority of them according to section fifth of this act, shall have power to transact all business properly belonging to corporate bodies, and within the purview of this act of incorporation, to pass all bye-laws for the regulation of this institution, and for the government of the board, not inconsistent with the laws of the State and provisions of this act; but they shall not have power to alienate the property belonging to the corporation, unless by the consent of a majority of the share-holders.

Sec. 7. Be it further enacted, That said institution shall be forever free from the control of any particular denomination of



christians or sectarian doctrines, and shall be open for the use and benefit of all, as an institution of learning.

Sec. 8. That this act shall take effect and be in force from and after its passage.

Approved, December 2, 1850.

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## CHAPTER XXII.

Joint Resolution refunding to Major W. S. Henry the Fine imposed upon him by Sentence of a Court Martial in the 9th Military Department of the United States Army.

Whereas, it appears that Major W. S. Henry, of the United States army, was required by a sentence of a Court Martial, convened in the 9th Military Department, to pay a fine of ten dollars for the courtesies extended by him to R. S. Neighbors, Commissioner of the State of Texas while in the exercise of his official duties. Therefore,

Be it resolved by the Legislature of the State of Texas, That the thanks of the State are due, and are hereby tendered to Major W. S. Henry, for his attention and courtesy to said commissioner, and that the Treasurer is duly authorized and required to refund and pay to Major W. S. Henry the fine imposed upon him by the sentence of said Court.

Sec. 2. Be it further resolved, That the Secretary of State be required to furnish a copy of this joint resolution on parchment, under the Great Seal of the State, to said W. S. Henry.

Approved, December 2, 1850.

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## CHAPTER XXIII.

An Act to locate the Seat of Justice of Kaufman County.

Section 1. Be it enacted by the Legislature of the State of Texas, That the chief justice of Kaufman county be, and he is hereby required, to hold an election for the county seat of said county.

Sec. 2. Be it further enacted, That the chief justice of said

county, so soon as he shall receive a certified copy of this act, shall put in nomination for said county seat, the donation known by the name of Kingsborough, and the donation at the geographical centre of said county, and none others; he shall give public notice of the time of holding the election, in writing, posted up at the different precincts in said county, at least ten days before the day of election.

Sec. 3. Be it further enacted, That the propositions submitted as inducements, in favor of the place which may be elected, shall be in the shape of penal bonds, and may be collected at the suit of said chief justice, or his successors in office, in the district court, for the use of said county, and the proceeds applied to the erection of public buildings for said county.

Sec. 4. Be it further enacted, That the election for said county seat, shall be conducted in conformity with the existing laws regulating elections, and the returns made in ten days to the chief justice of said county, who shall declare the place receiving the highest number of votes, to be the legal seat of justice of said county.

Sec. 5. Be it further enacted, That John S. Damron, J. L. Austin, James Love, Sterling R. Barns and J. W. Terrell shall be, and they are hereby appointed commissioners to lay out, sell and transfer lots, and to superintend the carrying out such propositions as may have been made in favor of the location selected, and report to the chief justice whether or not the bond, or bonds, containing propositions in favor of the place selected, have been strictly complied with, by the makers and obligors thereof.

Sec. 6. Be it further enacted, That the Secretary of State be, and he is hereby required to transmit by mail, to the chief justice of Kaufman county, a certified copy of this act, under the seal of the State, within ten days after the adjournment of the present called session of the Legislature.

Sec. 7. Be it further enacted, That all laws and parts of laws conflicting with the provisions of this act be, and the same are hereby repealed; and that this act take effect and be in force from and after its passage.

Approved, December 2, 1850.

CHAPTER XXIV.

An Act for the Relief of Stephen J. Sparks, Assignee of Samuel W. Wilds.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue a patent to Stephen J. Sparks, assignee of Samuel W. Wilds, upon certificate number one hundred and eighty-four, for six hundred and forty acres of land, issued by the board of land commissioners of Nacogdoches county.

Sec. 2. Be it further enacted, That an act for the relief of William C. Sparks, assignee of Samuel W. Willis, approved February 1st, 1850, be, and the same is hereby repealed; and that this act be in force and take effect from and after its passage.

Approved, December 2, 1850.

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CHAPTER XXV.

An Act for the Relief of John Edmonds.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue a certificate for one league and labor of land to John Edmonds, which may be located on any vacant and unappropriated public land in the State of Texas, and on the return of the field notes, and payment of government dues, a patent or patents, shall issue according to law in such cases provided, and this act shall take effect from its passage.

Approved, December 2, 1850.

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CHAPTER XXVI.

An Act for the Relief of John McLennan, Jr.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue a certificate for

one league of land to John McLenan, jr., which may be located on any of the vacant and unappropriated public domain in the State of Texas, and on the return of [the] field notes and payment of government dues, patents to issue as in other cases provided for by law; and this act take effect from and after its passage.

Approved, December 2, 1850.

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#### CHAPTER XXVII.

An Act authorizing the Governor to employ Counsel in the Supreme Court of the State, in Cases where the present Attorney General has been employed.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Governor be, and he is hereby required to appoint some suitable person to represent the State in all cases where the present Attorney General has been employed adversely.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved, December 2, 1850.

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#### CHAPTER XXVIII.

An Act for the Relief of Mary Alexander.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to Mary Alexander a certificate for twelve hundred and eighty acres of land, the same being her headright.

Sec. 2. Be it further enacted, That said certificate may be located on any vacant and unappropriated land in this State, and that the said Commissioner be, and he is hereby required upon the return of the field notes, to issue a patent thereon, upon the payment of the fees and government dues, according to the requirements of law; and that this act take effect from its passage.

Approved, December 2, 1850.

## CHAPTER XXIX.

An Act to require the Commissioner of the General Land Office to issue Patents for Lands therein named.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue patents for six hundred and forty acres of land, embraced in survey number 16, in section number 15, in Bexar land district, made by virtue of headright certificate number 444, second class, issued to Andrew Flores, by the board of land commissioners of Bexar county; also for six hundred and forty acres of land embraced in survey number 38, in section number 15, in Bexar land district, made by virtue of headright certificate number 169, issued to Simon Prado, by the board of land commissioners of Bexar county; also, for one league and one labor of land embraced in survey number —, in section number 15, in Bexar land district, made by virtue of a judgement rendered by the district court of Bexar county, at the fall term of said court, A. D., 1847, in favor of Elizano Pizana; also, for one league and one labor of land embraced in survey number —, in section number 15, in Bexar land district, made by virtue of certificate number 771—870, issued by the Commissioner of the General Land Office, in favor of Raymond Sunegas; also, for one third of a league of land, embraced in survey number —, in section number —, in Bexar land district, made by virtue of certificate number 1034, second class, issued to Gabrel Long, deceased, by administration, by the board of land commissioners of Harrisburgh county; also, for six hundred and forty acres of land, embraced in survey number —, in section number 15, in Bexar district, made by virtue of headright certificate number 116, issued to James W. Nichols by the board of land commissioners of Gonzales county; also, for one league and labor of land, embraced in surveys numbers 34 and 35, in section number 15, in Bexar land district, made by virtue of certificate number —, issued to John McMullen as assignee of Maria Rodrigues, by the board of land commissioners of Bexar county; the State hereby relinquishing all its right, title and interest in and to the lands embraced in said surveys to said grantees of said certificates and judgments, their heirs and assigns; provided said relinquishments and patents shall not operate to the prejudice of any existing individual rights.

Sec. 2. This act to take effect and be in force from and after its passage.

Approved, December 2, 1850.

## CHAPTER XXX.

An Act to authorize the Executive Board of Managers of the Masonic Female Institute at Marshall, Harrison county, to confer Degrees, and for other Purposes.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Executive Board of Managers of [the] Masonic Female institute, shall have full power and authority by the faculty of instruction, to grant and confer upon any students of said Institute, by them deemed worthy such degrees, in the arts, sciences, as are usually granted and conferred in collegiate institutions; also, to give diplomas, signed by them and sealed with the common seal of the said institute, to authenticate and perpetuate the memory of such graduations.

Sec. 2. Be it further enacted, That the Executive Board of Managers shall have a common seal, with such device as they choose, with liberty to alter the same at pleasure.

Approved, December 2, 1850.

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CHAPTER XXXI.

An Act to amend the first section of an Act entitled an Act to incorporate the Galveston and Brazos Navigation Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That the first section of the act entitled "an act to incorporate the Galveston and Brazos Navigation Company," be amended so as to read as follows:

Section 2. Be it enacted by the Legislature of the State of Texas, That there shall be established a company under the name and style of the Galveston and Brazos Navigation Company, with a capital stock of three hundred thousand dollars, with the privilege of increasing the same to six hundred thousand dollars, to be divided into shares of ten dollars each, for the purpose of cutting a canal from Sabine Bay, or Lake, on the waters thereof to Galveston Bay, on the waters thereof; also, from San Luis, or West Galveston Bay, to the waters of the Brazos River; and also, with the privilege of connecting by canal, the waters of the

Brazos River with the San Bernard, Peach Creek [and] Colorado River: Provided, however, said canal shall not commence or terminate at the Brazos River, nor cross the said stream at a point more than five miles from its mouth, without the consent of the Brazos and Galveston Canal Company.

Approved, December 2, 1850.

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## CHAPTER XXXII.

An Act to authorize the Commissioner of the General Land Office to issue patents to the Heirs of Simon Gillam and the heirs of John Smith.

Whereas, Simon Gillam and John Smith, having emigrated to the Republic of Texas, under the law donating lands to emigrants, &c., and having obtained conditional certificates as required, &c., and having died in said Republic before obtaining unconditional certificates; Therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized to issue patents to the heirs of Simon Gillam, and John Smith, upon the conditional certificates, without the production of the unconditional certificates; Provided, the surveys have been made in accordance with the laws heretofore passed, and in operation at this time, so far as relates to surveying, recording, &c.; and that this act take effect from and after its passage.

Approved, December 2, 1850.

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## CHAPTER XXXIII.

An Act for the Relief of Stockely D. Shoate.

Section 1. Be it enacted by the Legislature of the State of Texas, That upon the filing in the General Land Office, by Stockely D. Shoate, or his agent, of the field notes of a survey for six hundred and forty acres of land, appearing on the map of Leon county in the name of J. Chambers, and upon the depository of the bond of transfer made by said Chambers to Thomas C.

Swalem, attested by Charles Reagan and Charles Gayson, dated September 7th, 1847, for said headright of six hundred and forty acres, it shall thereupon be the duty of the Commissioner of the General Land Office to issue letters patent for said tract to said Stockely D. Shoate, as assignee of said Chambers, upon said Shoate paying the customary fee as provided by law in such cases; and that this act take effect from and after its passage.

Approved, December 2, 1850.

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#### CHAPTER XXXIV.

##### **An Act to incorporate the Town of Shelbyville in Shelby County.**

Section 1. Be it enacted by the Legislature of the State of Texas, That the citizens of the town of Shelbyville in Shelby county, be, and they are hereby declared a body politic and corporate, under the name and style of the Corporation of the town of Shelbyville, and by that name shall have power to sue, and be sued, plead and be impleaded, and to hold and dispose of real and personal property; Provided, such real property is situated within the limits of said corporation.

Sec. 2. Be it further enacted, That it shall be the duty of the citizens of said corporation to elect a Mayor, eight Aldermen, a Collector and a Constable; and a Treasurer, and Secretary shall be selected by said Aldermen from their own body: the Treasurer and Collector being required to give bond, with security, to be approved by the presiding officer for the faithful performance of their duties, and to make reports when required by the Mayor or board of Aldermen; and the Mayor shall have power when necessary, to suppress riots and disturbances, and to call out the citizens of said corporation for the purpose of restoring order.

Sec. 3. Be it further enacted, That the first election shall be held under the direction of the chief justice of said county, after having given ten days notice thereof, and annually afterwards, under the direction of the Mayor, at least ten days before the expiration of his term of office, and that in case of death or resignation, the vacancy, or vacancies shall be filled by new elections, to be ordered by the Mayor, and in case the office of Mayor shall be vacant, then the Aldermen shall elect one of their own body to act as Mayor until the next annual election.



Sec. 4. Be it further enacted, That no person shall be eligible to any office under the provisions of this charter, who is not a citizen of this State, and a resident within the limits of the incorporation; nor shall any person have a right to a vote for officers, who is not a citizen and resides within its limits.

Sec. 5. Be it further enacted, That the Mayor and board of Aldermen of said corporation, shall have power to pass such rules and ordinances as may be necessary for the regulation of the police, and the preservation of order within the corporation limits; to levy taxes for the removal of nuisances and keeping the streets in good order, and to prescribe penalties for the violation of the ordinances and by-laws of the corporation: Provided, that in no case such penalties shall exceed one hundred dollars.

Sec. 6. Be it further enacted, That the limits of said corporation shall extend one-half mile in every direction from the courthouse on the public square of said town of Shelbyville, in the centre of said corporation limits.

Sec. 7. Be it further enacted, That the Mayor with [a] majority of said Aldermen, shall constitute a quorum for the transaction of business, and shall enact and enforce such rules and regulations as they may deem necessary for the government of said corporation: Provided, the same do not conflict with the constitution and laws of this State.

Approved, December 2, 1850.

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## CHAPTER XXXV.

### An Act for the Relief of Berry Merchant.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby required and authorized to issue to Berry Merchant a certificate for one-third of a league of land, which may be located as now provided by law.

Sec. 3. Be it further enacted, That this act take effect from and after its passage.

Approved, December 2, 1850.

## CHAPTER XXXVI.

## An Act for the Relief of James Chesher, Sen'r.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized to issue a patent or patents to James Chesher, senior, under and in virtue of his headright certificate, number one hundred and eighty-one, issued to him by the Board of Land Commissioners, in and for the county of Jasper, the said Chesher having complied with the requisitions annexed to the approval of his said certificates.

Sec. 2. Be it further enacted, That this act take effect from and after its passage.

Approved, December 2, 1850.

## CHAPTER XXXVII.

## An Act amendatory of "an Act to create the County of Freestone."

Section 1. Be it enacted by the Legislature of the State of Texas, That the first section of the above recited act read as follows: Be it enacted by the Legislature of the State of Texas, that all that territory comprised within the following limits, to wit: beginning at the North East corner of Leon county; thence running with the North West boundary of said county, twenty-nine miles; thence North 30 degrees West, to the South East boundary of Navarro county; thence with the same North 6 degrees East to the Trinity river; thence down the channel of the same to the place of beginning, shall be constituted into a new county, and be called Freestone.

Sec. 2. Be it further enacted, That the following addition be made to said act, to wit: that it shall be the duty of the chief justice of Limestone county to order an election for county officers in said county of Freestone, on the first Monday in January, 1851, and the vote polled in Freestone county, shall [be] returned to the chief justice of Limestone county, who shall issue certificates of election to the officers elect of Freestone county,

and said officers, when so elected and qualified according to law, shall enter upon the discharge of their several duties.

Sec. 3. Be it further enacted, That the commissioners appointed in the 2d section of the above recited act, shall be allowed and paid out of the county treasury of Freestone county, the sum of one dollar per day each, for every day they may be necessarily employed in the discharge of the duties therein assigned them; that this act take effect and be in force from and after its passage.

Approved, November 30, 1850.

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## CHAPTER XXXVIII.

### Joint Resolution for the Relief of John C. Walling.

Section 1. Be it resolved by the Legislature of the State of Texas, That John C. Walling is hereby authorized to sell and convey his San Jacinto donation claim for six hundred and forty acres of land, all laws to the contrary notwithstanding; and that this joint resolution be in force from and after its passage.

Approved, December 2, 1850.

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## CHAPTER XXXIX.

An Act supplementary to "an Act to secure to the German Emigration Company, and their Colonists, the Lands to which they are entitled, and to adjust the liabilities of said Company," approved January 21, 1850.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner appointed by virtue of the above recited act, be authorized to cancel such certificates as may have been issued erroneously by the former Commissioner, and issue other certificates in lieu thereof, and that the certificate of the Commissioner of the General Land Office, of certificates erroneously issued, shall be sufficient evidence to authorize the canceling of the same.

Sec. 2. Be it further enacted, That persons who are entitled to receive certificates for lands as emigrated under the above recited act, where the survey made by the German Emigration Company shall have been exhausted, may proceed to locate their certificates on any unappropriated territory in said colony, and the surveys made under said certificates, shall be in conformity with the instructions from the district surveyor, so as to secure to the State each alternate section so surveyed.

Sec. 3. Be it further enacted, That patents shall be issued under the provisions of this act, and the act to which this is a supplement, within said colony.

Sec. 4. Be it further enacted, That this act shall be in force from and after its passage.

Approved, December 2, 1850.

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#### CHAPTER XL.

An Act concerning the Book or Register of Land Certificates, issued for the County of Harris, which was at one time mislaid, but the Book has subsequently been found, and identified as genuine and unaltered.

Section 1. Be it enacted by the Legislature of the State of Texas, That the clerk of the county court of Harris be, and he is hereby authorized and required to transmit to the Commissioner of the General Land Office, the book or register of land certificates issued by the board of land commissioners for the county of Harris, usually known as the lost book; that the said clerk shall annex to said book a certificate, under the seal of the county court, that the book transmitted is the lost book, and known and recognized in his office as a genuine record of his office.

Sec. 2. Be it further enacted, That the Commissioner of the General Land Office, on the receipt of said book, shall cause the same to be filed as one of the books or archives of his office; and he is hereby authorised to issue patents on the certificates mentioned and described as issued in said book, in all cases when the Commissioner of the General Land Office shall be satisfied, from the evidence contained in said book, that the several certificates are genuine and the parties entitled.

Sec. 3. Be it further enacted, That if any certificate mentioned or described in said book has been obtained by fraud or misrepresentation, the patents that may be issued thereon, shall be void, as well as every survey made under the same.

Approved, December 2, 1850.

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CHAPTER XLI.

An Act for the Relief of Lewis Monroe Mays, a Minor.

Section 1. Be it enacted by the Legislature of the State of Texas, That Lewis Monroe Mays, a miner, and a married man, be, and he is hereby declared to be, entitled to all the rights, privileges, liabilities and immunities, that he would upon arriving at the age of majority.

Sec. 2. That this act take effect from and after its passage.

Approved, December 2, 1850.

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CHAPTER XLII.

An Act to provide for the safe and profitable Investment of the School Fund.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Comptroller is hereby authorised and empowered to issue in the name of the State, State bonds, signed by the Governor and countersigned by the Comptroller, to the amount of thirty-six thousand dollars, bearing five per cent. interest from date of issue.

Sec. 2. That said bonds shall be deposited in the Treasury of the State, and remain as a charge against the State, passed to the credit of the free common school fund.

Sec. 3. That the Treasurer of the State is hereby authorised and instructed to disburse the aforesaid amount of thirty-six thousand dollars out of the school fund in his charge, to meet the current expenses of the State, as provided for by law.

Sec. 4. That this act shall take effect and be in force from and after its passage.

Approved, December 2, 1850.

## CHAPTER XLIII.

## An Act for the Relief of Peter Lopez and Henry Tierwester.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Landoffice be, and he is hereby authorised and required to issue to Peter Lopez a certificate for nine hundred and sixty acres of bounty land, for his services in the army of Texas in the years 1835 and 1836.

Sec. 2. That the said Commissioner be and he is hereby required to issue to Peter Lopez a certificate for six hundred and forty acres of land, on account of his participation in the attack on San Antonio in 1835, and for his participation in the battle of San Jacinto on the 21st of April, 1836; and that said certificates, when issued, may be located upon any public and unappropriated domain of this State; and upon the return of the same to the General Landoffice, with the field-notes of survey, the Commissioner of the General Land Office is hereby required to issue patents thereon.

Sec. 3. That the Commissioner of the General Landoffice be also required to issue to Henry Tierwester a certificate for two-thirds of a league and labor of land.

Sec. 4. That this act take [effect] and be in force from and after its passage.

Approved, December 2, 1850.

## CHAPTER XLIV.

## An Act making Appropriations.

Section 1. Be it enacted by the Legislature of the State of Texas, That the following sums be, and the [same] are hereby appropriated for the purposes named, viz: for copying and printing the laws and journals of the second extra session of the Third Legislature, convened November 18, 1850, twelve hundred dollars; for distributing the same, two hundred dollars.

For balance due for copying and printing laws and journals of second [first] extra session, third Legislature, fifty-three dollars and ninety cents.

For distributing Hartley's Digest and Reports of Supreme Court, five hundred dollars.

For contingent expenses of second extra session of third legislature, a sufficient amount of unexpended balance of appro-

priation for expenses of second [first] extra session is hereby transferred and appropriated.

For the payment of special messengers, who are employed to circulate the proclamation of the Governor, recommending an election on the question of selling a portion of our northwestern territory, four dollars per day each, for the time they were so employed, to be paid upon a proper showing made to the Comptroller.

For reimbursing Mr. Wiley Marshall, one of said special messengers, such amount as may be shown to the satisfaction of the Comptroller to have been paid by said Marshall, to agents employed by him to aid in distributing the Governor's proclamation as above.

For payment to said Wiley Marshall for a horse lost in said service, eighty-five dollars.

For printing laws of second session of the third legislature in Spanish, two hundred dollars, or as much thereof as may be necessary.

For amount due De Cordova & Co. for printing Governor's proclamation, in hand-bill form, in English and German, submitting the ten million proposition to the people, one hundred dollars.

For amount due De Cordova & Co. for publishing report of Auditor and Comptroller, in relation to public debt, in Southwestern American, twenty dollars.

For amount due De Cordova & Co. for publishing list of Notaries Public in accordance with act of 30th April, 1846, thirty-seven dollars.

For amount due De Cordova & Co. for publishing act for the liquidation of the public debt, sixty dollars.

For amount paid by Wm. F. Evans for copies of map of Fisher's and Miller's colony, for public use, sixty dollars, to be paid to order of said Evans.

Also, two hundred dollars, or so much thereof as may be sufficient, to defray the contingent expenses of the branches of the Supreme Court, at Galveston and Tyler, to be drawn by the Chief Justice of said court.

Also, for pay of A. J. Hamilton, two hundred and fifty dollars; John E. Cravens, one hundred and fifty dollars, and J. M. Ardrey one hundred and fifty dollars for services as Special Judges of the Supreme Court.

For pay of Benton & Price, for publishing proclamation of the Governor, ninety-six dollars.

For pay of George Robinson, for printing proclamation of Governor, in Huntsville Item, twenty-five dollars.

For pay of Benton & Price, for publishing proclamation of Governor, and the escape of Cheshire from jail, twenty dollars.

For compensation to Logan & Sterne, for publishing Governor's proclamation, twenty-five dollars.

For compensation to Jasper Starr, editor of the Wonder, for publishing the proclamation of the Governor, on the Pearce proposition, thirty-five dollars.

For compensation to Brown & Tarbox for conveying the remains of Samuel H. Walker, from Houston to La Grange, one hundred dollars.

For compensation to W. H. Cushney, for publishing Governor's proclamation, forty-four dollars.

For compensation to editor of the Dallas Herald, for publishing the Governor's proclamation, forty-four dollars.

Approved, December 3, 1850.

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## CHAPTER XLV.

### An Act for the Relief of Alanson Furgerson.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby, required to issue to Alanson Furgerson a certificate for one league and one labor of land, it being the quantity of land to which he is entitled by virtue of his emigration to the country and his marrying within the time prescribed by law.

Sec. 2. The said certificate may be located and surveyed, and patented in accordance with existing laws governing the same character of claims, and that this act take effect from and after its passage.

Approved, December 3, 1850.

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## CHAPTER XLVI.

### An Act for the relief of Zachariah N. Morrell.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue a certificate



for one league and labor of land to Zachariah N. Morrell, which may be located on any of the vacant and unappropriated land in this State; and on the return of field-notes, and payment of government dues, patents shall issue, as in other cases provided for by law, and that this act shall take effect and be in force from and after its passage.

Approved December 3, 1850.

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## CHAPTER XLVII.

An Act for the relief of the heirs of Martin W. B. Armstrong.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby required to issue a certificate for one-third of a league of land to the heirs of Martin W. B. Armstrong, it being the amount to which he was entitled as a headright, by virtue of his emigration to Texas as a colonist.

Sec. 2. That said certificate may be located, surveyed, and patented, according to the laws regulating first class claims; and this act take effect and be in force from and after its passage.

Approved December 3, 1850.

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## CHAPTER XLVIII.

An Act for the relief of William A. Burns.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue a certificate for one league and labor of land, the same being his headright, to William A. Burns.

Sec. 2. Be it further enacted, That the said certificate may be located upon any of the vacant and unappropriated land of this State, and that the Commissioner of the General Land Office be, and he is hereby required, upon the return of the field-notes, to issue a patent to said William A. Burns upon his paying the same fees and government dues required of colonists who emigrated previous to the second day of May, 1835, according to the requirements of law.

Sec. 3. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved December 3, 1850.

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## CHAPTER XLIX.

An Act for the relief of Benjamin Burke, of Tyler County.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Adjutant General be, and he is hereby requested to issue to Benjamin Burke, of Tyler County, a bounty warrant for three hundred and twenty acres of land, for serving a three months' tour in the army of Texas, in the year 1836.

Sec. 2. Be it further enacted, That said certificate shall be located, surveyed, and patented, according to the laws governing claims of a similar character, and that this act take effect and be in force from and after its passage.

Approved December 3, 1850.

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## CHAPTER L.

An Act for the relief of David B. Kent, Bosmor Kent, Mary Ann Bias, and Louisa Billings, heirs of Andrew Kent, deceased.

Section 1. Be it enacted by the Legislature of the State of Texas, That David B. Kent, Bosmor Kent, Mary Ann Bias, wife of William Bias, and Louisa Billings, wife of James Billings, children of Andrew Kent, deceased, are hereby made and constituted the legal heirs of Joseph Kent, deceased, late of De Witt county.

Sec. 2. Be it further enacted, That the estate of the said Joseph Kent, deceased, shall descend and pass, in parcenary, to the said David B. Kent, Bosmor Kent, Mary Ann Bias, and Louisa Billings, in the same manner as though they were the legitimate children of the said Joseph Kent, deceased.

Sec. 3. Be it further enacted, That the administrator of the estate of Joseph Kent, deceased, is hereby authorized and required to deliver over to the said David B. Kent, Bosmor Kent, Mary Ann Bias, and Louisa Billings, the residue of said estate, after the payment of the debts of the same, in such manner and form

as the law requires inheritances to be delivered to legal heirs in other cases of intestacy.

Sec. 4. Be it further enacted, That the provisions of this act shall not be construed to divest any right which any other person may have by law to inherit said estate in any manner whatever.

Approved, December 3, 1850.

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## CHAPTER LI.

### An Act for the relief of Martha McMillan.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required, to issue a certificate to Martha McMillan, for six hundred and forty acres of land, it being the quantity of land to which she is entitled by virtue of her emigration to Texas, which certificate may be located on any of the public and unappropriated domain of the State, in conformity with the laws regulating third class claims, and that this act take effect from its passage.

Approved, December 3, 1850.

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## CHAPTER LII.

### An act to repeal an act entitled, "An act to reserve one of the Public Buildings in the city of Austin, for the Supreme Court."

Section 1. Be it enacted by the Legislature of the State of Texas, That the above-recited act, approved January 1, 1848. be, and the same is hereby repealed; and that the house reserved by said act for the use of the Supreme Court be subject to the disposition of the Comptroller of Public Accounts, in the same manner as other public buildings in the city of Austin. and that this act take effect from its passage.

Approved, December 3, 1850.

## CHAPTER LIII.

## Joint Resolution for the relief of Robert Shaw, assignee [of] William Morrow.

Section 1. Be it enacted by the Legislature of the State of Texas, That the commissioner of Mercer's colony be, and he is hereby required to issue to Robert Shaw, assignee of William Morrow, a colony certificate for six hundred and forty acres of land, which shall be located and patented according to "An act for the relief of the citizens of Mercer's colony," approved February 2, 1850, and that this act take effect from and after its passage.

Approved, December 3, 1850.

## CHAPTER LIV.

## An act to regulate the pay of Volunteers in the service of Texas, in the year 1842.

Section 1. Be it enacted by the Legislature of the State of Texas, That the volunteers who served in the year 1842, in the expedition of General Burlerson, and those who served under Colonel Clark L. Owen, and those who served under said Owen and General James Davis, at Corpus Christi and Lepantican, shall receive the same compensation for their term of service, and upon the same terms and conditions, so far as they are applicable, as have been granted by previous enactments to the volunteers captured at Mier and at Santa Fé.

Sec. 2. That this act shall take effect and be in force from and after its passage.

Approved, December 3, 1850.

## CHAPTER LV.

## An Act better to regulate the Election of Judges of the Supreme Court.

Section 1. Be it enacted by the Legislature of the State of Texas. That in the election of Judges of the Supreme Court, there shall be elected one Chief Justice and two Associates, to hold their offices under, and in accordance with the provisions of the constitution of the State: provided, that should there be a

tie between two or more persons for the office of Chief Justice, or between three or more persons for Associate Justices, the Governor shall immediately order a new election, giving thirty days notice, to fill the places left vacant by such tie.

Sec. 2. That it shall be the duty of the Governor whenever a vacancy shall occur in the office of chief Justice, or Associate Judges, to order an election for such vacancy or vacancies, which election, when so ordered, shall be held in accordance with the laws regulating elections; and that this act take effect and be in force from and after its passage.

Approved, December 3, 1850.

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## CHAPTER LVI.

An act for the relief of Peter Gallagher and the legal representatives of Archibald Fitzgerald and Thompson Robinson.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Comptroller and Auditor of Public Accounts, are hereby authorized and required to audit and allow to Peter Gallagher, and to the legal representatives of Archibald Fitzgerald and Thompson Robinson, Santa Fé prisoners, the same pay allowed by law to volunteers mustered into the service of Texas and captured at Santa Fé, and that a certificate for the amount of said pay, be issued to the said Peter Gallagher, and to the legal representatives of the said Archibald Fitzgerald and Thompson Robinson.

Sec. 2. That this act take effect from and after its passage.

Approved, December 3, 1850.

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## CHAPTER LVII.

An act to incorporate the Waco Male and Female Academy in the County of McLennan.

Section 1. Be it enacted by the Legislature of the State of Texas, That Darius Gregg, John M. Stephens, George B. Erath, Shapley P. Ross, William B. Walker, John T. Eubanks, John S. Blair, and their associates and successors, are hereby created a body corporate in deed and in law, in the name and style of the Waco Male and Female Academy, and by that name may have

perpetual succession, and be capable in law of holding, by purchase or donation, property both real and personal, in fee for years, so long as they confine their operations to the promotion of education, provided, that the capital stock shall not exceed fifty thousand dollars.

Sec. 2. Be it further enacted that books shall be open to receive subscriptions in sums not less than five dollars, and any person who shall subscribe the sum of five dollars, shall be considered a portion or stockholder of said Academy, may have the right to sell or transfer their stock at pleasure, and shall have the privilege of voting in person or by proxy in all elections necessary for the government of said Academy, provided, no one stockholder shall own more than twenty shares, and provided, also, that no teacher in said Academy shall be a stockholder in the same.

Sec. 3. The stockholders may have the power to disfranchise any of their members by a vote of two thirds, provided, they pay to such stockholder the amount of his subscription.

Sec. 4. The stockholders shall elect from their number not less than five nor more than seven trustees, who shall hold their office as such for the term of one year, whose duty it shall be to procure teachers, regulate prices of tuition, and govern generally the operations of the institution, and shall have power to elect from their number a President, Secretary, and Treasurer, who shall hold their offices for the term for which the trustees are elected.

Sec. 5. The trustees shall have power to make such by-laws as they deem necessary for their own government and the management of the Institution, provided, they do not conflict with the constitution and laws of the State, and may alter and amend them at pleasure, and that this act take effect and be in force from and after its passage.

Approved, December 3, 1850.

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## CHAPTER LVIII.

An Act to amend the sixth Section of an Act entitled "An Act concerning Slaves," approved 5th February, 1840.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sixth section of an act entitled "an act concerning slaves," approved 5th February, 1840, be amended so as to read as follows: Section 6. Be it further enacted, That any

slave who may be found beyond and away from the premises of his owner, overseer or employer, on Sunday, or after the hour of ten o'clock, P. M., or any other day, without a written permit from his master, mistress, overseer, or employer, or with such written permit, at places other than are described in said permit, or away from the route usually travelled in going to and returning from the places to which the permit extends, the said negro-slave shall be liable to be taken up by any patrol, justice of the peace, or any individual, and in case said slave is taken up by the patrol, the said patrol shall inflict on said slave as a punishment any number of lashes, at his discretion, not exceeding ten; should the patrol, or any other individual, taking up a slave under the circumstances above specified, deem that more than ten lashes should be inflicted, under the circumstances, he shall take the slave before some justice of the peace, who on notice to the master, if residing within ten miles, and having the facts proved before him, shall adjudge the number of stripes which shall be inflicted, not exceeding nine, and order their infliction; should the master be unknown, or, if known, should he reside at a greater distance from the place where the said justice of the peace resides than it is to the nearest county jail, the said justice shall commit the slave to the said county jail, and cause notice thereof to be given in writing to [the] master, overseer, or employer, if known, the master, overseer, or employer, to be entitled to the possession of the negro-slave, on payment of all reasonable costs and charges not exceeding ten dollars; that it shall not be lawful for any slave to own firearms of any description; and every owner, overseer, or employer, who shall, knowingly, permit any slave owned by him, under his control, or in his employment, to carry firearms of any description, or other deadly weapons, at other places than on the premises of the owner, overseer, or employer, shall be fined not less than twenty-five dollars, nor more than one hundred dollars, and all costs, the firearms to be forfeited to the use of the county, and the negro to receive not less than thirty-nine nor more than fifty lashes, to be adjudged by any district court or justice of the peace before whom the charges may be preferred; that any slave found with any articles of trade or traffic in his possession offering the same for sale without a written permit to sell, describing the articles, shall be adjudged by any justice of the peace before whom he may be taken to receive not more than thirty-nine lashes, at the discretion of the justice of the peace, and the articles of trade and traffic shall be forfeited and sold to pay the costs, the excess to be paid into the county treasury: provided, that the articles taken from the possession of

the slave may be claimed at any time within six months by the owner thereof making proof of ownership; that any slave attempting to take the life of any white person or slave by means of poison or otherwise, shall be delivered over to the civil authority by the owner, overseer, or employer, if the slave is within their power or control, and every owner, overseer or employer who shall refuse to so deliver such slave, or send off, assist or connive at the escape of such slave, he shall be fined not less than one hundred nor more than five hundred dollars, in addition to the penalties imposed on accessories before or after the fact: provided, that nothing herein contained shall be so construed as to interfere with or in anywise affect the right of incorporated towns and cities in this State from making and enforcing their own police regulations, except so far as relates to the carrying of firearms.

Approved, December 3, 1850.

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#### CHAPTER LIX.

An Act for the relief of the Heirs or Legal Representatives of John W. R. Tildon, deceased.

Section 1. Be it enacted by the Legislature of the State of Texas, That the commissioner of the General Land Office be, and he is hereby authorized and required, to issue an unconditional headright certificate for one third of a league of land to the heirs or legal representatives of John W. R. Tildon, deceased, he having served as a volunteer in the army of the Republic of Texas, to be located, surveyed, and patented according to law as other headright certificates.

Sec. 2. That his act take effect from and after its passage.

Approved, December 3, 1850.





## THE STATE OF TEXAS.

I, James Webb, Acting Secretary of State, do certify that the third session of the third Legislature of said State, commenced its session at Austin on Monday, the eighteenth day of November, in the year one thousand eight hundred and fifty, and adjourned on Tuesday the third day of December, of the same year.

And I further certify, that the Acts and Joint Resolutions contained in this Volume, are true copies taken from the original laws deposited in the Department of State, with which they were carefully compared.

Given under my hand and seal of State, at the City  
[L.S.] of Austin, the sixth day of January A. D. one thousand eight hundred and fifty-one.

JAMES WEBB.

N. B.—The words in brackets were inserted by the Secretary of State, in comparing the laws with the originals, supposing them to be omissions in enrolling the bills.

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**LAWS**  
**OF**  
**THE FOURTH LEGISLATURE**  
**OF**  
**THE STATE OF TEXAS**  
  
**VOLUME IV.**

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**PUBLISHED BY AUTHORITY.**

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**AUSTIN.**  
**1852**

\* \* \* For more convenient reference, the laws contained herein are severally designated by chapters and numbers, in regular series. The laws of the first Legislature are considered as being embraced in volume I, those of the second in volume II, those of the third in volume III, and of the present in volume IV.

\* \* \* The laws of the present or fourth volume, are divided into two parts—Part I, containing those denominated “laws of a general nature,” and part II, those “for private relief” and “incorporating towns, cities, institutions of learning, and private associations of every nature,” in conformity to the provisions of Chapter 71, Section 2, Volume II.

\* \* \* Those laws signed by the Governor, are designated by the word Approved—and those not signed by him, are said to be Passed.



VOLUME IV—PART I.

# GENERAL LAWS.

---

## CHAPTER I.

An Act to make valid the use of certain Seals, by the officers of the County Court of Galveston County.

Whereas, the officers of the County Court of Galveston County, have had in use in the discharge of their official duties, two Seals; one with the words "Galveston County Court" around the margin thereof, with a Star of five points in the centre, and "Texas" engraved between the points of said Star; with two rings close to each other, drawn around said Star, so as to touch the points thereof, or nearly so, with another ring drawn around said Seal, a sufficient distance from the aforesaid two rings, to admit of the engraving of the aforesaid words, "Galveston County Court," around the space between the said rings; with notches around the outer edge of said Seal between the second line and outer edge.—The other Seal with the words "Galveston County Court" around the margin; a Star of five points in the centre, and the word "Texas" engraved between the points, with a deep ring or circle drawn around said Star, about one-half or one-quarter of an inch from the points of the Star, and another deep ring around the margin; the aforesaid words "Galveston County Court," being engraved on the space between said rings; with two Stars of five points each, on a line therewith and between the words "County" and "Court;" the other between the words "Court" and "Galveston;" therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That any of the official acts of any of the officers of the aforesaid County Court, where either of the above described Seals may have been used, are, and the same are hereby declared to be legal and valid, so far as the Seal is concerned.

Sec. 2. Be it further enacted, That this act shall be in force from its passage.

Approved, November 24, 1851.

---

## CHAPTER II.

An Act making an appropriation for the Per Diem Pay and Mileage of the Members and Officers of the Fourth Legislature of the State of Texas, convened November 3rd, 1851.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of twenty-five thousand dollars be, and the same is hereby appropriated for the per diem pay and mileage of the members and officers of the fourth Legislature, convened at Austin on the 3rd day of November, A. D. 1851, and that the certificate of the Secretary of the Senate, and of the Chief Clerk of the House, shall be authority for the Comptroller to draw on the Treasurer for the several amounts that the members and officers are respectively entitled to, and that this act take effect from and after its passage.

Approved, November 24, 1851.

---

## CHAPTER III.

An Act appropriating five thousand dollars to pay the Contingent Expenses of both Houses of the Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas. That the sum of five thousand dollars be, and the same

is hereby appropriated to pay the contingent expenses of both Houses of the Legislature.

Sec. 2. That this act take effect from and after its passage.

Approved, November 24, 1851.

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#### CHAPTER IV.

An Act authorizing the County Court of Cameron County to levy a Special Tax for two years.

Section 1. Be it enacted by the Legislature of the State of Texas, That the County Court of Cameron county, shall have power to levy a special tax for County purposes, upon all subjects of taxation in said county on which a tax may be levied by the State; provided, said tax shall not exceed in any one year the amount of the tax levied by the State on such subjects of taxation; and, provided, also, that such tax shall be apportioned in the same manner as the State tax, and the special tax so levied upon all subjects of taxation other than trades, occupations and professions, shall be assessed and collected by the Assessor and Collector of the State taxes of said county in the same manner as the State tax, and shall be paid by him into the County Treasury; and all of said tax upon trades, occupations and professions shall be collected by the County Treasurer of said county in the same manner as the State tax upon such subjects is collected, and the County Treasurer shall have the same power to enforce the collection of such tax for said county as the Assessor and Collector has for the collection of taxes for the State, and the Assessor and Collector and County Treasurer shall severally receive the same compensation for collecting said tax, as is allowed them by law, for collecting taxes for the State.

Sec. 2. That this act shall take effect from and after the first day of January, one thousand eight hundred and fifty-two, and remain in force for two years from said date.

Approved, November 24, 1851.

## CHAPTER V.

An Act to authorize the County Court of Smith County to levy an additional Tax for the purpose of building a Courthouse.

Section 1. Be it enacted by the Legislature of the State of Texas, That the County Court of Smith County is hereby authorized and empowered to levy an additional tax upon the persons and property of all persons, subject to taxation in said county of Smith, for the purpose of building a Courthouse in said county, which shall be assessed and collected as other taxes; provided, that the county tax shall not exceed one hundred per cent. on the State tax.

Sec. 2. Be it further enacted, That this act take effect from and after its passage.

Approved, November 24, 1851.

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CHAPTER VI.

## Joint Resolution.

Section 1. Be it resolved by the Legislature of the State of Texas, That the reports of the several States, and other Law books in the office of the Secretary of State, be removed to the Supreme Court Room, under the care of the Sheriff of said Court, for the use of the Judges, for the term of said Court, now in session, to be returned immediately after the adjournment thereof.

Sec. 2. That this act take effect from and after its passage.

Approved, November 24, 1851.

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CHAPTER VII.

An Act to amend an act entitled an act to permanently locate the Seat of Justice of Denton County, approved November the 26th, 1850.

Section 1. Be it enacted by the Legislature of the State of Texas. That the above entitled act be so amended as to read as

follows: That the seat of justice of Denton county be permanently located on the donation of land made by Alexander E. Cannon, on Hickory creek in said county, and that all Courts which by law are to be held at the county seat of said county shall be held there, and that the Clerks and other officers, who by law are to keep their offices at the county seat, shall remove them to said seat of justice, and said seat of justice shall be called Alton.

Sec. 2. Be it further enacted, That all acts of the County Court of said county in relation to the location of said seat of justice be, and the same are hereby legalized; and that this act take effect and be in force from and after its passage.

Approved, November 26, 1851.

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## CHAPTER VIII.

An Act to amend an act to create the County of Freestone, approved December 6th, 1850.

Section 1. Be it enacted by the Legislature of the State of Texas, That the town of Fairfield, in Mound Prairie, is hereby declared the County Seat of Freestone county.

Sec. 2. That the judicial proceedings of the County Courts of Freestone county heretofore holden in the town of Fairfield, are hereby declared as valid and binding, as if the said town of Fairfield had been the county seat of said county.

Sec. 3. That the District and County Courts of the county of Freestone, shall be holden at the said town of Fairfield.

Sec. 4. That all laws contrary to this act, are hereby repealed; and that this act take effect from and after its passage.

Approved, November 24, 1851.

## CHAPTER IX.

An Act for the relief of persons who have obtained unconditional Land Certificates from the County Court of Grimes County, setting as a Board of Land Commissioners, issued between the first day of July and thirty-first day of December, 1848.

Whereas, the office and records of the County Court of Grimes county, were destroyed by fire sometime in the month of December and year 1848, whereby the County Clerk of said county is unable to make to the Commissioner of the General Land Office his returns of the land certificates, issued by the County Court of said county, as a Board of Land Commissioners, between the first day of July and the last day of December, 1848; Therefore, Section 1. Be it enacted by the Legislature of the State of Texas, That any person holding an unconditional certificate for land, issued by the said County Court of Grimes county, between the first day of July and the thirty-first day of December, 1848, may submit said certificate to the County Court of said county of Grimes, at any session thereof; and if it be found to be genuine, the same shall be duly certified by the Chief Justice and County Clerk of said County Court, under the seal thereof; which said certificate, when so certified, shall be sufficient authority for the Commissioner of the General Land Office to patent the land so surveyed by virtue of the same, in the same manner as though the returns of the said Clerk of the County Court of Grimes county, had been made in conformity with law.

Sec. 2. That this act shall take effect from its passage, and be in force for one year thereafter and no longer.

Approved, December 8, 1851.

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CHAPTER X.

An Act better defining the Boundaries of the County of Cameron.

Section 1. Be it enacted by the Legislature of the State of Texas, That all the territory embraced within the following lim-

its, to-wit: Commencing at the mouth of the Rio Grande, and running up said river to a point where the upper line of old Reynosa or "Las Cuevas" strikes the same, thence in a north easterly direction until it strikes the south-western boundary of Nueces county at right angles, thence in a southeasterly direction along the south-western line of Nueces county to a point where the Olmas creek empties into the Laguna Madre, thence due east across the Laguna Madre and the Island of Paddu Balli to the Gulf of Mexico, thence down the Gulf of Mexico and the Island of Paddu Balli to the place of beginning; shall constitute the county of Cameron.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved, December 8, 1851.

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## CHAPTER XI.

An Act to amend an act concerning the Book or Register of Land Certificates issued for the County of Harris, which was at one time mislaid, but said Book has been subsequently found and identified as genuine and unaltered.

Section 1. Be it enacted by the Legislature of the State of Texas, That the second section of the above recited act be so amended as to read as follows, viz: "Section 2. That the Commissioner of the General Land Office be, and he is hereby required to issue patents on the certificates mentioned and described in said book now on file in his office, which claims have never been acted on or rejected by the Board of Commissioners appointed to detect fraudulent land certificates; and if any certificate mentioned or described in said book has been obtained by fraud or misrepresentation, the patent issued thereon shall be null and void."

Sec. 2. That this act shall take effect from and after its passage.

Approved, December 8, 1851.

## CHAPTER XII.

An Act to legalize certain Acts and Records of the Clerk of the County Court of Lamar County.

Whereas, during the months of February, March, April, May and June of the year 1851, the County Seal of Lamar county was lost or stolen; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That all acts and records of the County Clerk of Lamar County, attested by his private Seal, and bearing dates in either of the months specified in the preamble to this act, be, and the same are hereby declared as valid as if the same had been attested by the original Seal of said County Court; and that this act take effect and be in force from and after its passage.

Approved, December 8, 1851.

---

CHAPTER XIII.

An Act to provide for the erection of Public Buildings in Kaufman County.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioners appointed by an act, entitled an act to locate the seat of justice of Kaufman county, approved December 2nd, 1850, be, and they are hereby authorized and required to cause to be erected at the seat of justice of said county, a suitable Courthouse, jail and other public buildings, to be paid for out of the proceeds of the sales of town lots at said county seat, and said Commissioners are hereby directed and required, to apply said funds or a sufficiency thereof, to that purpose.

Sec. 2. That after the erection of the public buildings provided for in the first section of this act, said Commissioners shall pay over to the County Treasurer of said county, whatever balance there is remaining in their hands of said funds for the use of said county.



Sec. 3. That Rhodes S. Wilson and Stephen O. Gibbs be, and they are hereby appointed Commissioners to act with those heretofore appointed to locate the seat of justice of said county.

Sec. 4. That this act take effect and be in force from and after its passage.

Approved, December 13, 1851.

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#### CHAPTER XIV.

##### **An Act relinquishing to the County of El Paso a certain Tract of Land.**

Section 1. Be it enacted by the Legislature of the State of Texas, That the State of Texas hereby relinquishes to the county of El Paso, all that square or tract of land, situate in the town of San Elizario, in said county, and known as the "Presidio" recently occupied as private quarters, and a Corral by the United States troops, together with all buildings and outhouses thereon, to be used for county purposes, as the Chief Justice and County Commissioners of said county, or a majority of them may direct.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved, December 13, 1851.

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#### CHAPTER XV.

An Act to provide for the reception and deposite of a portion of the Indemnity due the State of Texas by the United States for the sale of a portion of her North-Western Territory, under the provisions of an act of Congress, approved September 9th, 1850.

Section 1. Be it enacted by the Legislature of the State of Texas, That it is hereby made the duty of the Comptroller of

Public Accounts of this State, to proceed to the City of Washington, District of Columbia, and receive from the Secretary of the Treasury, or other proper authority of the Government of the United States, the five millions of dollars of stock to which the State of Texas became unconditionally entitled, by her acceptance of the proposition from the United States as contained in the act of Congress, entitled "an act proposing to the State of Texas the establishment of her northern and western boundaries," etc., approved September 9th, 1850; to sign and deliver proper receipts for the same, and when received, to deposit them in the Treasury of the State of Texas, to be disposed of as may be provided by law; provided, that no bond issued as aforesaid, as a portion of the said five millions of stock, payable to bearer, shall be available in the hands of any holder until the same shall have been endorsed in the City of Austin by the Governor of the State of Texas.

Sec. 2. That said Comptroller is hereby authorized to receive and receipt for, in behalf of the State of Texas, all the interest which will remain due and unpaid on the said five millions of dollars of bonds on the first day of January, eighteen hundred and fifty-two, and deposit the same in like manner as provided in the first section of this act.

Sec. 3. That the sum of one thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of any money in the Treasury not otherwise appropriated, to pay the expenses necessary to carry into effect the provisions of this act; and that this act take effect and be in force from and after its passage.

Approved, December 16, 1851.

---

## CHAPTER XVI.

**An Act to enable the State of Texas to obtain the money advanced the Government of the United States for the Subsistence and Forage of two Companies of Rangers in the service of the United States, Commanded by Captains Blackwell and Johnson.**

Section 1. Be it enacted by the Legislature of the State of Texas, That the Comptroller of Public Accounts is hereby re-

quired to take the necessary steps to obtain from the Government of the United States the funds advanced by this State for the forage and subsistence of two companies of Rangers, in the service of the United States, in the year eighteen hundred and forty-nine, commanded by Captains Charles M. Blackwell and Isaac W. Johnson, under the provisions of two several acts of the Legislature, approved December 26th, 1849, and February 5th, 1850, and for that purpose he is hereby authorized to deliver such evidences of said advances on file in his office, to the proper officers of the United States, as will secure the refunding to this State of the amount in question.

Sec. 2. That the Treasurer of this State is hereby authorized and required to deliver to the Comptroller any receipts or vouchers in his charge, connected with said advances, which may be necessary to enable said Comptroller to carry out the object and intent of this act.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved, December 16, 1851.

---

## CHAPTER XVII.

An Act changing the name of the County Seat of Bell County.

Section 1. Be it enacted by the Legislature of the State of Texas, That the name of Nolandville, given to the County Seat of Bell county, be, and is hereby changed to that of Belton, and that Belton be hereafter the name of said County Seat.

Sec. 2. That this act shall take effect from and after its passage.

Approved, December 16, 1851.

## CHAPTER XVIII

An Act to amend the Estray Law, approved February 8, 1850.

Section 1. Be it enacted by the Legislature of the State of Texas, That the third section of the act regulating estrays, approved February 8, 1850, be, and the same is hereby so amended as to read as follows, to wit:

It shall be the duty of the clerk of the county court to record the papers transmitted to him as provided in the second section of said act, in a separate book, to be kept in his office for that purpose, and for which he shall be entitled to demand and receive the same fees that are allowed by law for similar services, to be paid in all cases by the taker up: provided, that when two or more animals are taken up at the same time and by the same person, they shall be included in the same entry, and the justice of the peace and clerk shall receive no more fees than for one such animal; and each county clerk shall cause a statement of the appraisement and the description of the animal or animals so estrayed to be advertised, at least three times, in some newspaper published in the county where such animal or animals were estrayed, if there be one, and if there be no newspaper published in the county, then the clerk shall cause the same to be advertised in the newspaper published nearest the county, and also by posting up notices at three public places in the county, one of which shall be at the courthouse door thereof; and the printer of such notice shall furnish a copy of the paper containing the same to said clerk, whose duty it shall be to file and preserve the same in his office, for the inspection of all persons who may be interested; and for such publication the printer shall be entitled to receive, from the party estraying, the sum of two dollars, to be collected by the county clerk and paid to the order of the printer.

Sec. 2. That the fifth section of said act be so amended as to read as follows, to wit:

The property of every stray horse, mare, colt, mule, jack, jennet or work-ox, taken up as aforesaid, and not proven away by the owner, within twelve months after such appraisement, shall be deemed vested in the county wherein such stray or estrays may have been posted; and the taker up shall immediately thereafter proceed to sell the same, for cash, to the highest bidder, at the courthouse door of the county, giving notice of the same, as required in the case of sheriffs' or constables' sales;

and, within ten days after such sale, he shall pay into the county treasury of the county one-half of the proceeds of the same, and retain the other half for his own use or benefit: provided, that each and every return of sale shall be made to, and filed by the county clerk of the county, and sworn to by the taker up: provided, that the owners of property so estrayed may, at any time within six months after such sale, apply to the county treasurer, and, upon proof of such ownership, shall be entitled to have and receive the amount so deposited, after paying such costs as may be necessary to establish his right thereto.

Sec. 5. That the eighth section of said act be so amended as to read as follows, to wit:

That any citizen taking up any stray cattle other than work-oxen, hogs, sheep or goats, shall proceed in the same manner as required in the case of horses, &c., except advertising in a newspaper; and any person estraying the same at the expiration of six months from the date of appraisement, shall proceed to give notice as required in cases of sheriffs' or constables' sales, and to sell such estrays where they were taken up, if not less than three bidders attend such sales: provided, that no animal of the kind enumerated in this section, except work-oxen, shall be subject to be estrayed, unless the same shall have been on the plantation or land of the taker up at least twelve months previous to the time of estraying the same: and further provided, that the counties of El Paso and Presidio be exempt from the provisions of the first section of this act, so far as it relates to the advertisement of estrays in newspapers.

Approved, December 17, 1851.

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## CHAPTER XIX.

An Act to require the Commissioners of the Town of Paris, in Lamar County, to turn over to the County Court of said County, all Moneys, Notes, Deeds and other Documents in their possession.

Section 1. Be it enacted by the Legislature of the State of Texas, That the commissioners appointed by an act of the Congress of the Republic of Texas, entitled "an act supplementary

to an act to designate the southern boundary of Lamar county," approved January 3, 1844, be and they are hereby required to deliver to the county court of Lamar county all moneys, notes, deeds and other papers which may be in their hands, arising from sales of lots in the town of Paris.

Sec. 2. That the county court of Lamar county is hereby authorized to appoint a commissioner to sell the unsold lots, and to make deeds to lots heretofore sold in said town of Paris, sue for and collect all moneys due for lots sold, and to do and perform all acts and deeds which the said commissioners were authorized to do and perform by authority of the act of the third day of January, A. D. 1844; and that this act be in force and take effect from its passage.

Approved, December 17, 1851.

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## CHAPTER XX.

### An Act concerning Estates of Deceased Soldiers.

Whereas, doubts have arisen, whether the several acts of the Congress of the Republic of Texas relating to the estates of deceased soldiers, were repealed by the act to organize Probate Courts, approved May 11, 1846, and unauthorized persons have administered upon many of such estates, and sold the lands intended to be granted to the heirs of such soldiers, contrary to the intent of such acts: therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That "an act to provide for the settlement of deceased soldiers, estate," approved May 18, 1838, and "an act to amend said act," approved December 24, 1838, be, and the same are hereby repealed: and that the "act to protect the rights of the heirs and next of kin to the members of the Georgia Battalion, and other volunteers from foreign countries, who have fallen in the battles of the Republic, or otherwise died in the limits of the same," approved January 14, 1841, be, and is declared to be in full force and effect.

Sec. 2. No administration shall be granted on the estate of any person who served as a volunteer, from another State or country, who may have fallen in the battles of the Republic,

or otherwise died in the limits of the same, or elsewhere, to any person who shall not show himself entitled to the same as next of kin, or shall not produce an authority from the heirs or next of kin of such deceased soldier, authorizing him to take administration.

Sec. 3. When administration has heretofore been granted on the estates of deceased soldiers, without the authority contemplated by this act, it shall not be lawful for such administrator to receive from any officer of the State or other person, any patent or land claim, money or evidence of debt, to which such deceased soldier may have been entitled, nor to sell the lands, or land claims of such deceased, without the consent of the heirs of such deceased soldier; and the proof relied on as evidence of such consent shall be recorded in the court granting the order to sell, before such order is made.

Sec. 4. That in all cases where administration has been granted on estates of deceased soldiers, without the authority contemplated by this act, it shall be the duty of the Chief Justices of the County Courts granting the same, to cause the administrators to be notified, as in other cases, to file in court the authority or consent aforesaid; and in case of failure so to do, they shall order the removal of such administrators, and also, to require them to deliver to the Clerk of the Court all the property and title papers in their possession, belonging to the estate; and it shall be the duty of such administrators, or Clerk of the Court having possession of said property, to deliver the same to the heirs of such deceased soldier, or their legally authorized agent, on demand; that this act take effect and be in force from and after its passage.

Approved, December 17, 1851.

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## CHAPTER XXI.

An Act to repeal the twenty-fourth section of an act concerning Crimes and Punishments, approved 20th March, 1848.

Section 1. Be it enacted by the Legislature of the State of Texas, That the twenty-fourth section of an act concerning crimes and punishments, approved twentieth of March, one thousand eight hundred and forty-eight, be, and the same is hereby repealed.

Approved, December 17, 1851.

## CHAPTER XXII.

## An Act to establish the Terms of the Supreme Court.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Supreme Court shall hold a session at the city of Austin, on the second Monday of November, eighteen hundred and fifty-one, and may continue in session ten weeks.—At the city of Galveston on the first Monday in February, eighteen hundred and fifty-two, and may continue in session eight weeks. At the town of Tyler, in Smith county, on the second Monday in April, eighteen hundred and fifty-two, and may continue in session until the business shall be disposed of.

Sec. 2. That from and after the close of the session, in the first section provided for, the sessions of the Supreme Court shall be governed by the law heretofore in force.

Sec. 3. That this act shall be in force from its passage.

Approved, December 22, 1851.

## CHAPTER XXIII.

## An Act making an appropriation for the purchase of an Iron Safe, and a Set of Books for the Treasurer's Office.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of one thousand dollars, or so much thereof as may be necessary, be, and is hereby appropriated for the purchase of a fire-proof iron safe and a set of books for the use of the Treasurer.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved, December 24, 1851.



CHAPTER XXIV.

An Act to amend the 10th section of an act to organize the District Courts, and define their Powers and Jurisdiction.

Section 1. Be it enacted by the Legislature of the State of Texas, That the tenth section of an act to organize the District Courts, and define their powers and jurisdiction, approved the eleventh day of May, eighteen hundred and forty-six, be so amended as to read as follows: Section 10. In all counties where the terms of the District Courts are limited by law to one week, the Judges of said Courts shall on the first day of each term, set apart and enter of record, particular days for the trial of criminal causes, and in those counties where the term allowed is more than one week, the criminal docket shall be taken up for trial on a day not earlier than the third day of the term, to which day, witnesses in criminal causes shall be summoned to attend.

Sec. 2. That this act shall take effect from and after its passage.

Approved, December 24, 1851.

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CHAPTER XXV.

An Act to amend the 151st section of an act to regulate proceedings in the District Courts, approved May 13th, 1846.

Section 1. Be it enacted by the Legislature of the State of Texas, That the one hundred and fifty-first section of an act to regulate the proceedings in the District Courts, approved May 13th, 1846, shall be, and is hereby amended so that it shall hereafter read as follows, viz: That no injunction to stay an execution shall be granted, but within one year after judgment is obtained, unless it shall appear from the oath of the complainant or complainants, to the Judge applied to, that such application has been delayed in consequence of the fraud or false promises of the plaintiff in the judgment, practiced or made at the time of, or after obtaining the judgment, or unless it shall appear on oath, that the complainant or complainants, was or

were out of the State at the time of rendering up judgment, so that application could not be made within the time aforesaid, in which cases injunction may be granted at any time within two years.

Approved, December 24, 1851.

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## CHAPTER XXVI.

An Act to enable part owners of Slaves and other personal property to obtain partition thereof.

Section 1. Be it enacted by the Legislature of the State of Texas, That part owners of slaves and other personal property may be compelled to make partition between them.

Sec. 2. The separate value of the slaves or other personal property, and the allotment in kind, to which each party claiming partition shall be entitled, shall be ascertained by the verdict of the Jury.

Sec. 3. Where partition, in kind, of slaves or other personal property, shall be ordered by the judgment of the Court, execution or executions shall be issued to the proper officer or officers of the county or counties where the property may be, commanding him or them to put the parties in possession of the property allotted each respectively.

Sec. 4. When slaves or other personal property will not admit of partition in kind, the jury shall so find by their verdict, and at the same time ascertain the proportion of the value of such slaves or other personal property, to which each party shall be entitled respectively.

Sec. 5. In cases provided for in the next preceding section, execution or executions shall be issued to the proper officer or officers of the county or counties where the property may be, commanding him or them to sell the property as in other cases of execution, and pay over the proceeds of sale to the parties, in proportion ascertained by the judgment of the Court.

Sec. 6. This act shall not effect the mode of proceeding prescribed by law for the partition of estates of deceased persons among the heirs and legatees.

Sec. 7. This act shall be in force from its passage.

Approved, December 24, 1851.

## CHAPTER XXVII.

### An Act concerning the Qualification of Officers.

Section 1. Be it enacted by the Legislature of the State of Texas, That no person shall be eligible to any office of honor, profit or trust in this State, unless he be a qualified elector under the Constitution at the time of his election; and that this act take effect from and after its passage.

Approved, December 24, 1851.

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## CHAPTER XXVIII.

### An Act to render Valid and Effectual to Legal Claimants, Patents for Land, which have been issued, or which may be issued, in the names of deceased persons.

Section 1. Be it enacted by the Legislature of the State of Texas, That all patents for land, which have heretofore been issued by the authorities of the Republic or State of Texas, in the names of persons, then at the time of issuing such patents, deceased; and all patents for lands which may be issued hereafter by authority of the State of Texas, in the names of persons, deceased at the time at which said patents may be issued, shall be to all intents and purposes and effects, as valid and effectual to convey and secure to the heirs or assigns, as the case may be, of such deceased persons, the lands so patented or which may be so patented, as though such deceased persons had been in being at the time such patents bear date; provided, that nothing in this act contained, shall be so construed, as to validate any claim, not otherwise just and legal, but it shall simply mean that a patent issued to one not in being at the time said patents issued, shall not be void for such cause.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved, December 24, 1851.

## CHAPTER XXIX.

An Act to remove certain Spanish Records hereinafter described, from the General Land Office, to the County Court Clerk's Office of Refugio County.

Section 1. Be it enacted by the Legislature of the State of Texas, That volume forty-five of Spanish records, now on file in the General Land Office, containing titles to town lots in the Mission of Refugio, issued by the Commissioner of Power and Hewitson's colony be, and the same shall be transferred to the County Court Clerk's office of Refugio county.

Sec. 2. That the Commissioner of the General Land Office be, and he is hereby authorized and required to deliver said Spanish records, above described, to the County Clerk of Refugio county, or by any person authorized by him to receive the same.

Sec. 3. That this act take effect from and after its passage.

Approved, December 24, 1851.

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CHAPTER XXX.

An Act authorizing the County Court of El Paso County to appoint the place of holding the District Courts in said County, and defining the time of holding the District Courts in the Eleventh Judicial District.

Section 1. Be it enacted by the Legislature of the State of Texas, That the District Courts in and for the county of El Paso, shall be held at such place as the County Court of said County may appoint, until otherwise provided by law.

Sec. 2. That the District Courts in the eleventh judicial district, shall commence in the county of El Paso on the first Monday of March, and on the first Monday of September, and may continue in session for four weeks; and in the county of Presidio on the first Monday of May, and the first Monday of November, in each year, and may continue in session as long as the business may require; provided, always, that the Spring term

of said Court for the county of El Paso in the year A. D. eighteen hundred and fifty-two, shall be held on the second Monday of May.

Sec. 3. That all laws, and parts of laws, contrary to the provisions of this act, be and the same are hereby repealed.

Sec. 4. That this act take effect and be in force from and after its passage.

Approved, December 24, 1851.

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## CHAPTER XXXI.

**An Act giving Damages upon Protested Drafts and Bills of Exchange, drawn upon Persons living out of the limits of the State.**

Section 1. Be it enacted by the Legislature of the State of Texas, That the holder of any protested draft or bill of exchange, drawn within the limits of this State, upon any person or persons living beyond the limits of this State, shall, after having fixed the liability of the drawer or endorser of any such draft or bill of exchange, as provided for in the act of March twentieth, eighteen hundred and forty-eight, be entitled to recover and receive ten per cent. on the amount of such draft or bill, as damages, together with interest and costs of suit thereon accruing: Provided, that the provisions of this act shall not be so construed as to embrace drafts drawn by persons other than merchants, upon their agents or factors.

Approved, December 24, 1851.

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## CHAPTER XXXII.

**An Act to amend an act regulating the Public Printing, approved March 8th, 1848.**

Section 1. Be it enacted by the Legislature of the State of Texas, That the seventh section of an act, regulating the Public Printing, approved March 8th, 1848. be, and the same is hereby amended so as to read as follows, viz: Section 7. Be

it further enacted, That a Public Printer shall hereafter be elected within three days after the organization of the two Houses of the Legislature, at each regular session thereof, whose duty it shall be to print the Laws and Journals, in accordance with the act to which this is an amendment, at the following prices, to-wit: One-sixth of a cent per page for the laws, and one-fourth of a cent per page for the journals; one-third of a cent per page for five hundred copies of the message of the Governor, reports of the Secretary of State, Comptroller of Public Accounts, Auditor, Treasurer of the State, Superintendent of the Penitentiary, and all such like printing that may be ordered by the Legislature, or either House thereof, to be printed on the same size sheet and type as is required for the journals, and one-fourth of a cent per page for each additional five hundred copies of said message and other documents; for printing two hundred copies of Bills, Resolutions or Memorials, printed on pica type, the lines numbered on the margin, with a space between the lines, of the size of pica, and on foolscap paper, with four pages to a sheet, the sum of two dollars and fifty cents per page, for the number of pages in one copy thereof; for printing Executive proclamations, advertisements and such like documents, fifty cents per square of ten lines, for the first insertion, and twenty-five cents per square for each succeeding insertion that may be ordered.

Sec. 2. That during the present session of the Legislature, a public printer may be elected at such time as by the concurrence of the two Houses may be determined.

Approved, December 27, 1851.

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## CHAPTER XXXIII.

An Act to allow Assessors and Collectors to employ Deputies.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Assessors and Collectors of this State shall have power to appoint deputies to assist them in the discharge of their duties, and that the same law which now governs Sheriffs in the appointment of their deputies, shall govern Assessors and Collectors.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved, January 6, 1852.

CHAPTER XXXIV.

An Act to allow the several Counties of this State to establish Work-houses or Houses of Correction.

Section 1. Be it enacted by the Legislature of the State of Texas, That the several Counties of this State shall have power to establish Work-houses or houses of Correction therein; to erect and provide suitable buildings with cells, or apartments proper for the confinement of offenders sentenced thereto; to furnish materials for the work of those who are ordered to labor; to direct the kind of labor and the manner and place in which it is to be performed, either within or without the work-house, and to make any regulations not inconsistent with the Constitution and laws of this State, which may be necessary to carry into effect the provisions of this act.

Sec. 2. That the Chief Justice and County Commissioners of each county shall have the supervision of said work-house or house of correction, and shall have the power to appoint some proper person to keep the same, and to fix his compensation; shall superintend and direct the keeper as to the management, labor and food of the prisoners; shall once in three months at least, visit such work-house; shall see that the law is duly executed, and shall take care that the prisoners are suitably provided for, and not exposed to abuse or oppression, and if the keeper shall be guilty of misconduct, they shall remove him and appoint another in his place.

Sec. 3. That it shall be the duty of the keeper of each work-house or house of correction, to receive all persons who shall be sent there by lawful authority, and keep them during such time for which they are sentenced to such work-house, employed in such labor as they shall be able to perform; and if any of them shall be refractory or stubborn, and refuse to work or to perform their work in a proper manner, he may put them in close confinement until they shall submit to perform their tasks and obey his orders.

Sec. 4. That if any offender shall abscond, escape or depart from the work-house without license, the keeper shall have power to pursue, retake and bring back such prisoner, and when brought back, the keeper may confine such prisoner with shackles, or in such manner as he may judge necessary, or may put him in close confinement until he shall submit to the regulations of the work-house, and for every escape, each offender

shall be holden to labor in the work-house for the term of one month in addition to the term for which he was first committed.

Sec. 5. That it shall be the duty of the County Court of each county, when a work-house is established, to provide for the support of the prisoners therein; and it shall be the duty of the keeper of the work-house to keep an exact account of all money expended for such work-house, and of all the earnings of the prisoners, and he shall render a detailed account to the superintendent once in three months at least, of the expense of the work-house, and of the labor and earnings of the prisoners, and if the earnings shall not be sufficient to pay the expenses of said work-house, the deficiency shall be paid out of the County Treasury; and if the earnings of the prisoners shall be more than sufficient to pay the expenses of said work-house, the overplus shall be paid into the County Treasury for the use of the County.

Sec. 6. That males and females shall be kept separately, and no spirituous liquors shall be suffered to be sold or given to the prisoners.

Sec. 7. That all vagrants or idle persons who have nothing wherewith to support themselves, and who make no proper exertions to obtain an honest livelihood, and all persons convicted of having stolen any money, bank-bills, goods or chattels, or any writing containing evidence of an existing debt, contract, liability, promise or ownership of property, of a less amount or value than twenty dollars, may be committed to the work-house and sentenced to hard labor as hereinafter provided.

Sec. 8. That in all counties where work-houses shall be established as provided for by this act, when any person or persons shall be convicted of petit larceny, as described in the preceding section of this act, the punishment for which is fine and imprisonment in the County Jail, it shall be lawful for the Court to sentence such person or persons to hard labor in the work-house for such time as shall have been assessed by the jury trying the same, not exceeding one year.

Sec. 9. That whenever complaint shall be made in writing, and upon oath, to any Justice of the Peace, against any vagrant or idler, as contemplated in the seventh section of this act, it shall be the duty of such Justice to issue a warrant under his hand, reciting the complaint, directed to any lawful officer, commanding him to arrest and bring such person before said Justice at such time and place as said Justice shall name in the warrant, and when so brought before him, if the accused



shall not demand a jury, the Justice shall proceed to hear the testimony for and against the accused, and also the voluntary statements of the accused relating to his mode and manner of living, and if it shall appear to said Justice that the accused has no means of support sufficient for such individual, and that no proper securities are made by the party defendant, he may condemn such person to the work-house at hard labor for any time not exceeding ninety days; but if on examination he shall be of the opinion that there was no good foundation for such complaint, he shall discharge the accused, and give judgment for costs against the complainant, provided, that the party accused shall always be entitled to a jury if he shall demand it.

Sec. 10. That two or more counties may join in building, occupying or maintaining a work-house in such manner and on such terms as they shall agree, not inconsistent with this act.

Sec. 11. That upon the petition of ten respectable free-holders of any county, it shall be the duty of the Chief Justice of such county, or in case of a vacancy or inability of said Chief Justice to act, it shall be the duty of two County Commissioners of said county, to order an election at the established precincts, giving not less than twenty days notice, for the purpose of taking the sense of the people of said county in regard to the establishment of a work-house, agreeably to the provisions of this act, and if a majority of the electors of said county, at said election, shall vote in favor thereof, the Chief Justice and County Commissioners shall be authorized to carry into effect the provisions of this act; but no work-house shall be established until such election shall have been had, nor unless a majority of the electors of said county shall be in favor thereof.

Sec. 12. That this act take effect and be in force from and after its passage.

Approved, January 8, 1852.

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## CHAPTER XXXV.

### An Act to prevent locations in Milam's Colony.

Section 1. Be it enacted by the Legislature of the State of Texas, That no certificate of land, land warrants or evidence of land claim of any kind whatever, shall hereafter be located

upon any land heretofore titled or equitably claimed within the limits of what was Milam's Colony, and the Commissioner of the General Land Office is hereby prohibited from hereafter issuing a patent on any location hereafter made for any of the lands described in this act, and should any patent be hereafter issued for the same, or any part thereof, contrary to the provisions of this act, the same shall be null and void.

Sec. 2. That this act shall take effect from and after its passage.

Approved, January 10, 1852.

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## CHAPTER XXXVI.

An Act to locate permanently the County Seat of Justice for the County of Lavaca.

Section 1. Be it enacted by the Legislature of the State of Texas, That the second Monday in June, A. D. eighteen hundred and fifty-two, be fixed as the day for holding an election in the county of Lavaca, for the selection of a suitable place for the permanent location of the County Seat of Justice for said county, and it shall be the duty of the Chief Justice of Lavaca county to give public notice of said election, and to issue orders for the holding of said election at the different precincts in said county, at least ten days previous to said election.

Sec. 2. That it shall be the duty of said Chief Justice to receive and make public by advertisement, in each precinct in the said county of Lavaca, such propositions as may be offered by the citizens of Petersburg, Halleysville, Rock Spring and the geographical centre of said county, or such other place or places as may be in nomination, as suitable locations for the County Seat of said county, without regard to geographical limits.

Sec. 3. That all propositions submitted to the Chief Justice in compliance with the second section of this act, shall be in the shape of penal bonds, and shall be collectable in law at the suit of said Chief Justice and his successors in office in the said county of Lavaca, for the use of the county, in the District Court, and the proceeds applied to the erection of County buildings.

Sec. 4. That each bona fide settler who has resided within the limits of the said county of Lavaca three months next preceding said election, and has arrived at the age of twenty-one years, shall be deemed a qualified voter in the location of the county seat of said county.

Sec. 5. That the election of said County Seat shall be conducted agreeable to the laws regulating elections, and the returns made to the Chief Justice of said county within ten days after the election, who shall publish the result and declare the place receiving the highest number of votes, to be the legal Seat of Justice for the said county of Lavaca, provided any one place shall have received a majority of all the votes polled at said election, but in the event no one place shall have received a majority as aforesaid, then it shall be the duty of the Chief Justice to order another election, after giving notice as in the first instance, putting in nomination the two places that have received the greatest number of votes; which election shall be conducted and the returns made as heretofore provided, and the place then receiving the highest number of votes shall be declared the County Seat of Justice for the said County of Lavaca.

Sec. 6. That Benjamin H. Stribling, N. Chombliss, A. G. Andrews, John Hinch and Joseph Ryan, three of whom may constitute a quorum to do business, shall be, and they are hereby appointed Commissioners to lay out and sell and transfer lots, and to superintend the carrying out such propositions as may have been made in favor of the location selected, and report to the Chief Justice whether or not the bond or bonds containing propositions in favor of the place selected, have been strictly complied with by the makers and obligors thereof.

Sec. 7. That as soon as suitable county buildings are received by the Commissioners and reported to the Chief Justice, the Clerks of the District and County Courts and Sheriff shall remove their offices and papers to the place selected as the County Seat, and all Courts thereafter shall be held at the said County Seat.

Sec. 8. That all laws and parts of laws conflicting with this act, are hereby repealed, and that this act take effect and be in force from and after its passage.

Approved, January 15, 1852.

## CHAPTER XXXVII.

## An Act to locate the Seat of Justice of Cass County.

Section 1. Be it enacted by the Legislature of the State of Texas, That the town of Linden, near the centre of Cass county, be, and the same is hereby declared to be the Seat of Justice for the county of Cass in the State of Texas.

Sec. 2. That so soon as the necessary buildings shall have been erected, it is hereby made the duty of the Clerks of the District and County Courts, Sheriff and Surveyor of said county, to remove their respective offices to the said Seat of Justice of Cass county, and thereafter all Courts for said county (except that of Justices of the Peace) shall be holden at the said town of Linden until otherwise directed by law.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved, January 15, 1852.

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CHAPTER XXXVIII.

## An Act to make an appropriation to pay the expenses of the Supreme Court for the years 1851, 1852 and 1853.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of three thousand eight hundred and seventy-eight dollars and fourteen cents, or so much thereof as may be necessary, be, and the same is hereby appropriated out of any money in the Treasury, not otherwise appropriated, for the purpose of paying the expenses of the Supreme Court for the years eighteen hundred and fifty-one, eighteen hundred and fifty-two and eighteen hundred and fifty-three, and that satisfactory vouchers for said expenses shall be presented to the Comptroller before the money shall be drawn from the Treasury.

Sec. 2. That this act shall be in force from its passage.

Approved, January 17, 1852.

CHAPTER XXXIX.

An Act to confirm certain titles to Land, so far as the Location and Survey are concerned.

Whereas, certain grants of land in Vehlin's and Burnet's Colonies were located and surveyed across the boundary line between said Colonies, between the Trinity and Neches river; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That all titles made to colonists or settlers, for their head-right claims, provided, that said claims shall not exceed in quantity one league and labor to one individual, located and surveyed as aforesaid, are hereby declared to be as valid as if the same had been located and surveyed wholly in the colony by which they were respectively granted, and the lands embraced by said locations and surveys are hereby relinquished and quit-claimed to the grantees of said titles, their heirs and assigns, in the same manner and to the same extent as if said lands had wholly belonged to the colony from which said titles emanated respectively, and no further; provided, this act shall not affect titles previously acquired by any third party; and that this act take effect from and after its passage.

Approved, January 17, 1852.

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CHAPTER XL.

An Act giving two weeks' session to the District Court of Montgomery County.

Section 1. Be it enacted by the Legislature of the State of Texas, That the District Court of the seventh Judicial District shall commence in the county of Montgomery on the first Mondays in March and September, and may continue in session two weeks.

Sec. 2. That all writs and process which have been or may be issued from the District Court of Montgomery county, made returnable to the second Monday in March, eighteen hundred and fifty-two, shall be considered returnable, and shall be re-

turned to the first Monday in March, eighteen hundred and fifty-two, and all such writs and process shall have the same force and effect as if they had originally been so issued and made so returnable.

Sec. 3. That this act take effect from and after its passage.

Approved, January 19, 1852.

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## CHAPTER XLI.

An Act better defining the boundaries of Denton County.

Section 1. Be it enacted by the Legislature of the State of Texas, That from and after the passage of this act, the boundaries of Denton county shall be as follows: beginning at the south-west corner of Collin county, as now established; thence north with the west boundary line of said county of Collin, to the corner of Grayson county; thence north with the boundary line of that county, to the north-east corner of said Denton county, as established by the county of Grayson, a distance in all, of twenty-nine miles and twenty-seven chains, (4 pole chains;) thence west, following the line of Grayson county, and passing its south-west corner, in all thirty-one miles; thence south to a point due west of the north-west corner of Dallas county, as now established by law; thence east to said corner of Dallas county; thence with the north boundary line of said county of Dallas, eastward to the beginning.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved, January 24, 1852.

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## CHAPTER XLII.

An Act to create the County of Hidalgo.

Section 1. Be it enacted by the Legislature of the State of Texas, That the territory embraced within the following limits to wit: beginning at the south-western corner of a tract of land

called the Llano Grande, at a point on the Rio Grande where said line strikes the same, and running north along the eastern line of said land to the southern line of Nueces county; thence in a north-westerly direction along the southern line of Nueces county, to the north-eastern corner of Starr county; thence in a south-western direction along the lower or eastern line of Starr county, to the Los Cuevas and Rio Grande; thence down the meanders of the Rio Grande, to the place of beginning, shall be constituted into a new county, to be called Hidalgo: Provided, that should a line running north from the place of beginning, embrace that portion or tract of country known as the "Janita," said line shall be so far varied to the westward as to leave the said "Janita" in Cameron county.

Sec. 2. That it shall be the duty of the Chief Justice of Cameron county, to order an election for county officers in said county of Hidalgo, on the first Monday in August, A. D. 1852; and the vote polled in Hidalgo county shall be returned to the Chief Justice of Cameron county, who shall issue certificates of election to the officers of Hidalgo county, and said officers, when so elected, and qualified according to law, shall enter upon the discharge of their several duties.

Sec. 3. That the town of Edinburgh be, and is hereby made the county seat of the said county of Hidalgo.

Sec. 4. That the county of Hidalgo shall assume and pay to the county of Cameron, as its proportional part of the debt of Cameron county, one thousand dollars, which said amount may be discharged with the county scrip of said county of Cameron at its face value, at any time within two years from its organization of said county of Hidalgo.

Sec. 5. That this act shall be in force from and after its passage.

Approved, January 24, 1852.

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## CHAPTER XLIII.

### An Act to indemnify the owners for the loss of Slaves executed for Capital Offences.

Section 1. Be it enacted by the Legislature of the State of Texas, That in all cases where a slave, the property of a citizen of this State shall be convicted of a capital offence by a

Court of competent jurisdiction, the jury rendering the verdict shall assess the value of such slave.

Sec. 2. That the transcript of the judgment of the court, together with the verdict and appraisement of the jury, and the return of the Sheriff, or other officer authorized to execute the process of said Court, that such slave has suffered the penalty of death in accordance with the sentence of the Court, shall be sufficient evidence to entitle the owner of any slave so executed to receive from the Treasury of the State, one half of the appraised value of said slave: Provided that the appraisement shall, in no case, exceed one thousand dollars; and provided, also, that the owner of said slave shall not attempt to evade or defeat the execution of the law on said slave, which fact shall be found by the jury trying such slave, nor shall a slave be so paid for, who may be condemned for any offence, in the commission of which his owner was either principal or accessory.

Sec. 3. That this act shall take effect from and after its passage.

Approved, January 24, 1852.

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#### CHAPTER XLIV.

An Act to define the time of holding the District Courts in the Tenth Judicial District.

Section 1. Be it enacted by the Legislature of the State of Texas, That the District Court shall be held in each county in the tenth Judicial District as follows, to wit:

In the county of Victoria on the first Mondays in March and September, and may continue in session two weeks.

In the county of Calhoun on the second Mondays after the first Mondays in March and September, and may continue in session two weeks.

In the county of Jackson on the fourth Mondays after the first Mondays in March and September, and may continue in session one week.

In the county of Lavaca on the fifth Mondays after the first Mondays in March and September, and may continue in session one week.

In the county of Gonzales on the sixth Mondays after the



first Mondays in March and September, and may continue in session two weeks.

In the county of De Witt on the eighth Mondays after the first Mondays in March and September, and may continue in session two weeks.

In the county of Goliad on the tenth Mondays after the first Mondays in March and September, and may continue in session two weeks.

Sec. 2. That all process in said counties shall be made returnable in conformity with the provisions of this act; and that this act take effect and be in force from and after its passage.

Approved, January 24, 1852.

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#### CHAPTER XLV.

An Act for the relief of the settlers in the territory commonly known as Mercer's Colony.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office is hereby required to issue patents upon all surveys made by virtue of certificates issued to settlers as colonists in the territory commonly known as Mercer's Colony, under the same terms and conditions as required by law in other cases: Provided, that no such certificate shall be located without the limits of the territory generally known as Mercer's Colony, prior to the rendition of the decree of twenty-eighth day of October, A. D. eighteen hundred and forty-eight, by the District Court of Navarro county; provided, that nothing contained in this act shall be so construed as to recognise any right of the contractors of said Colony to any lands therein, on account of said contract, or rights growing out of the same.

Sec. 2. That this act shall take effect from its passage.

Approved, January 24, 1852.

## CHAPTER XLVI.

An Act to restore lands sold for taxes and purchased by the State to the former owners, upon certain conditions therein named.

Section 1. Be it enacted by the Legislature of the State of Texas, That the owners of lands heretofore sold, or hereafter to be sold for the taxes of any year anterior to the year eighteen hundred and fifty-two, and purchased by the State, shall have the right of redeeming the same at any time before the first day of January, eighteen hundred and fifty-three; provided, that said owners pay to the Comptroller of the State, or to the Assessor and Collector of the county where such sale has been made, or may be made, or in the county where the land may be situated, the amount of tax due the State at the time of such sale, together with all taxes which would have accrued, had the party continued to own the lands to the time of such payment, together with eight per cent. interest per annum thereon, and one dollar to the Assessor and Collector who may have sold said land as aforesaid, which amount of one dollar shall be secured for the benefit of the Assessor and Collector making the sale, on the redemption of said land; and that on all entries and locations made since the thirty-first day of December, eighteen hundred and fifty-one, upon lands sold for taxes and purchased by the State, the Commissioner of the General Land Office shall not issue patents; and when lands shall hereafter be sold for taxes and purchased by the State, they shall not be subject to entry or location, but shall be disposed of as the Legislature may direct, and the proceeds arising from such disposition shall be paid into the Treasury of the State.

Sec. 2. That the receipt of the Comptroller shall be sufficient evidence to the owner or owners, that the provisions of this act have been complied with.

Sec. 3. That the Assessor and Collector of the county where each respective sale has been, or may be made, or in the county where the land is situated, shall be competent to receive and grant certificates of redemption for lands purchased for the State under the provisions of this act; and that this act take effect and be in force from and after its passage.

Approved, January 28, 1852.

CHAPTER XLVII.

An Act to prescribe the time of holding the District Courts in the second Judicial District of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That the terms of the District Courts in the second Judicial District shall be held in each county in the District twice in each year, as follows:

In the county of Travis on the first Mondays in March and September, and may continue in session four weeks.

In the county of Caldwell on the fourth Mondays after the first Mondays in March and September, and may continue in session one week.

In the county of Comal on the fifth Mondays after the first Mondays in March and September, and may continue in session one week.

In the county of Hays on the sixth Mondays after the first Mondays in March and September, and may continue in session one week.

In the county of Guadalupe on the seventh Mondays after the first Mondays in March and September, and may continue in session one week.

In the county of Fayette on the eighth Mondays after the first Mondays in March and September, and may continue in session two weeks.

In the county of Bastrop on the tenth Mondays after the first Mondays in March and September, and may continue in session two weeks.

In the county of Williamson on the twelfth Mondays after the first Mondays in March and September, and may continue in session two weeks.

Sec. 2. All process returnable to, and triable at the regular terms of the District Courts of the second Judicial District, as now provided for by law, shall be returnable to, and triable at the regular terms herein prescribed.

Sec. 3. All laws and parts of laws conflicting with the provisions of this act are hereby repealed; and this act shall take effect and be force from and after the first Monday in February next.

Approved, January 28, 1852.

## CHAPTER XLVIII.

An Act appropriating Five Thousand Dollars to pay the Contingent Expenses of both Houses of the Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of five thousand dollars be, and the same is hereby appropriated to pay the contingent expenses of both Houses of the Legislature.

Sec. 2. That this act take effect from and after its passage.

Approved, January 28, 1852.

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## CHAPTER XLIX.

An Act transferring an appropriation for the survey of Land Scrip.

Section 1. Be it enacted by the Legislature of the State of Texas, That the unexpended balance of an appropriation for the years eighteen hundred and fifty and eighteen hundred and fifty-one, to pay for surveying land scrip sold by order of the Government of Texas, be, and the same is hereby transferred and appropriated to the payment of any properly approved accounts for surveying done and performed prior to, and during said years.

Sec. 2. This act shall go into effect and be in force from and after its passage.

Approved, January 28, 1852.

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## CHAPTER L.

An Act providing for the liquidation and payment of the debt of the late Republic of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas. That two millions of dollars of bonds of the indemnity due the State of Texas, and now at her disposal, for the sale to the United States, of a portion of her north-western territory,

under the provisions of an act of Congress proposing to the State of Texas the establishment of her northern and western boundaries, &c., approved September 9, 1850, are hereby appropriated for the payment of that portion of the debt of the late Republic of Texas embraced in articles third, fourth, ninth, tenth, fourteenth, fifteenth and sixteenth, and interest which may have accrued thereon, included in articles twelfth and thirteenth of this section, which debt has been submitted for adjustment to the Auditor and Comptroller of the State, under the provisions of an act to provide for ascertaining the debt of the late Republic of Texas, approved March 20, A. D. 1848, and an act supplementary thereto, approved February 8, A. D. 1850, and reported by them to the Legislature in their report of November 12, 1851, as follows:

First.—For ten per cent. consolidated fund, created by act of the 7th of June, 1837, four hundred and forty-two thousand seven hundred and sixty-eight dollars and seventy-six cents.

Second.—For ten per cent. consolidated fund, created by act of the 7th of June, 1837, issued under an act for the relief of Swartwout and others, seven thousand nine hundred and seventy dollars and forty-three cents.

Third.—For ten per cent. funded debt, created by the act of 5th of February, 1840, two hundred and twenty-six thousand and two hundred dollars.

Fourth.—For eight per cent. funded debt, created by act of 5th of February, 1840, seven thousand two hundred and eighty-four dollars.

Fifth.—For eight per cent. Treasury bonds, created by act of 5th February, 1840, two hundred and fifty-three thousand three hundred and sixty dollars.

Sixth.—For ten per cent. Treasury notes, issued under act of June 9, 1837, first issue, forty-one thousand six hundred and thirty dollars.

Seventh.—For ten per cent. Treasury notes, issued under act of June 9, 1837, second issue, one hundred and sixty-five thousand six hundred and eighty-five dollars and fifty cents.

Eighth.—For Treasury notes without interest, issued under act of 19th January, 1839, third issue, four hundred and fifty-seven thousand and forty-eight dollars.

Ninth.—For audited paper, issued under various enactments, sixty-nine thousand four hundred and fifty-one dollars and fifty-two cents.

Tenth.—For miscellaneous liabilities, twenty-six thousand one hundred and twenty-nine dollars and eighty-seven cents.

Eleventh.—For ten per cent. bonds, issued by Commissioners to negotiate a loan for five millions of dollars, viz: For loan obtained from Bank of United States, four hundred thousand dollars. For purchase of Steamer Zavalla, ninety thousand and fourteen dollars and eighty four cents. For purchase of Naval vessels under contract with F. Dawson, now owned by James Schott and E. D. Whitney, one hundred and forty thousand dollars.

Twelfth.—For interest on the above liabilities, issued subject to interest as stated in the face of the certificates, one million four hundred and sixty-eight thousand, one hundred and fifty-five dollars and twenty-six cents.

Thirteenth.—For additional interest to 1st July, 1850, allowed by act approved 11th February, 1850, on claims which had been audited prior to its passage, one hundred and thirteen thousand six hundred and sixty-four dollars and eighty cents.

Fourteenth.—For amount filed and receipted for as Second Class debt, six hundred and seventy-nine thousand two hundred and twenty-two dollars and forty cents.

Fifteenth.—For amount filed and receipted for as Third Class, since recognized as second class, sixteen thousand four hundred and sixty-seven dollars and ninety-five cents.

Sixteenth.—For amount audited by special acts of the Legislature, seventy-two thousand and seventy-seven dollars and twenty-eight cents, less thirty-eight thousand and fifty-three dollars and seventy-three cents, amount acknowledged by joint resolution, approved March 15, 1848.

Sec. 2. That the disbursements herein provided for, shall be made in the bonds or stocks of indemnity alluded to in the first section of this act, or the proceeds thereof, by the Treasurer of this State, upon the certificates of indebtedness issued by the Auditor and Comptroller, under the provisions of the laws above named, and in all other respects the said Treasurer shall be governed by the laws regulating the payment of money out of the State Treasury, and the Comptroller of Public Accounts for the State of Texas, is hereby authorized to transfer a sufficient amount of said stock, when the transfer shall be necessary, by simple endorsement, attested by his seal of Office, to be countersigned by the Treasurer of the State, which transfer shall divest the State of Texas of all interest in such bonds or stock, and invest the same in the holder thereof; provided, that payment shall be made on any claim against the State included in, or forming a part of articles first, second, fifth, sixth, seventh, eighth and eleventh, or for interest which may have accrued

thereon, included in articles twelfth and thirteenth in the first section of this act, when the Governor of this State shall be notified by the President of the United States that the Secretary of the Treasury of the United States has been required by law to issue to the State of Texas the five millions of dollars of stock withheld under the provisions of said act, approved September 9th, 1850, until certain creditors of Texas shall have filed releases at the Treasury of the United States as therein required, or that said Secretary has been required by law to issue to the State of Texas, sums of said stock equal to the sums for which the State may at any time present the required releases from any portions of said creditors at the Treasury of the United States, after which notice, such claim or claims shall be paid as provided for in other cases, and upon payment of the same, or any portion of said claims, the corresponding amount of bonds of the reserved five millions, which the State may be entitled to receive under the proviso of this section, shall be drawn for by the Comptroller and deposited in the Treasury of the State, and shall be negotiated and transferred in the same manner as provided for other bonds; and together with the surplus left of the appropriation named in the first section of this act, after payment of the sums to which it is to be applied, shall be appropriated for, and paid out only upon the claims embraced in articles first, second, fifth, sixth, seventh eighth, eleventh, twelfth and thirteenth of this act.

Sec. 3. That it shall be the duty of the Comptroller immediately after the passage of this act, to forward to the Secretary of the Treasury of the United States a schedule of the names of creditors for the payment of whose claims conditional provision is made by the second section of this act, stating the amount to which each creditor is entitled.

Sec. 4. That before the payment of any of the claims provided for by this act, the claimant shall be required to sign a receipt to the State of Texas, that the amount so received is in full liquidation and payment of the claim or claims so presented, and also a release exonerating the United States from all liability for the same, said release to be in form as prescribed by the Secretary of the Treasury, and approved by the President of the United States for releases under the said act, approved September 9th, 1850; and that this act be in force from its passage.

Approved, January 31, 1852.

## CHAPTER LI.

An Act supplementary to an act entitled an act to amend the second and seventh sections of an act, entitled an act to organize the Supreme Court of the State of Texas, approved May 12th, 1846.

Section 1. Be it enacted by the Legislature of the State of Texas, That if any cases argued or submitted to the Supreme Court of this State, during a term holden at one of the places defined by the act to which this is a supplement, shall be left undecided at the close of said term, it shall be, and is hereby made competent for said Court to decide such case whilst sitting at either of the other two places, and when such decision shall be made, the Court shall cause their judgment and opinion to be transmitted to the Clerk of said Court at the place where the cause was submitted, to be by him entered of record, as in other cases.

Sec. 2. That this act shall take effect and be in force from and after its passage.

Approved, January 31, 1852.

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CHAPTER LII.

An Act supplementary to an act entitled an act, to locate permanently the County Seat of Lavaca County.

Section 1. Be it enacted by the Legislature of the State of Texas, That should the county seat of justice be removed from the town of Petersburg to any other place in said county, then, on the removal taking effect, and without any other conveyance, all the right, title and interest, at this time held by the said county in and to all and any part of that tract of land, situated on the east bank of the La Vaca river in said county, being a part of the league of land granted to Arthur Shernell, beginning at the lower corner of Clark L. Owen's survey on said river, thence east with said Owen's lower line, 4,158½ varas, thence south 475½, thence west to the La Vaca river, thence up said river with its meanderings to the place of beginning,—



containing three hundred and fifty acres, more or less, shall pass and vest in the said Arthur Shernell, to be held by him absolutely and free from all claims of said county, provided that all the rights of persons heretofore acquired by a conveyance from the said county shall not be affected in any manner by this act.

Section 2. That the County Court of said county shall, at the first regular term of said Court, or some subsequent time, make out an estimate of the amount received by the County Court for all lots or parcels of land sold by order of said Court, out of the tract aforesaid, and issue to the said Arthur Shernell county scrip to the amount so received by said Court, to be paid out of the first money in the treasury of said county, and that this act take effect and be in force from and after its passage.

Approved, January 31, 1852.

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#### CHAPTER LIII.

An Act to provide for the Service of Process issuing from Justices Courts, in certain cases.

Section 1. Be it enacted by the Legislature of the State of Texas, That in all suits brought in a Justice's Court against two or more defendants, jointly liable, and where one or more of the defendants reside out of the county where suit is instituted, the Justice of the Peace before whom suit is brought, shall issue process to the Sheriff or any Constable of the county or counties where such defendant or defendants are alleged to reside, and the officer to whom such process is directed shall serve the same as in other cases, and make his return to the Court from which the process issued.

Sec. 2. That where there are two or more defendants in a suit, and one or more are served with process, in due time, and others not so served, the plaintiff may either discontinue as to those not so served, and proceed against those that are, or he may continue the suit until the next term of the Court, and take new process against those not served, and no defendant against whom any suit may be discontinued, according to the provisions of this section, shall be thereby exonerated from any lia-

bility under which he was, but may at any time be proceeded against as if no such suit had been brought, and no such discontinuance entered as to such defendants; provided, that this section shall not be so construed as to allow a plaintiff to discontinue as to the principal and take judgment against the endorser or surety who is jointly sued.

Approved, January 31, 1852.

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## CHAPTER LIV.

An Act providing a mode of establishing certain Land Certificates conditionally recommended for Patents.

Whereas, citizens residing near the boundary line run in the year 1842, between Texas and the United States, North from the point where the 32d parallel of latitude crosses the Sabine, had, in many instances, obtained certificates of headright from the Board of Land Commissioners constituted by virtue of the land law of the 14th December, 1837, and which certificates were conditionally approved by the Board of Investigating Commissioners previously to the running of said line; and, whereas, the holders of said certificates cannot obtain their patents without proving, before some tribunal yet to be established or authorized by law, to receive these proofs of citizenship, and act upon their claims.

Section 1. Be it enacted by the Legislature of the State of Texas, That all persons who reside near the said boundary line, claiming to be citizens of Texas, before the establishment thereof, and who as such citizens received certificates of headright from any of the original Boards of Land Commissioners, constituted by virtue of the Land Law aforesaid, and whose certificates were conditionally approved by the investigating boards, and the heirs and assigns of such persons, may make application by petition to the District Court of the county where the certificate was issued, or any county formed out of any territory of such county, describing the original certificate, and alleging that it was conditionally recommended by the commissioners appointed to detect fraudulent land certificates, and also the place of residence of the applicant at the time of its issuance and that he resides within the limits of Texas, and was a citizen

thereof; which petition shall be verified by affidavit of the applicant, and together with the proof necessary to establish the facts alleged, shall be submitted to a jury, who shall determine the said facts, and say by their verdict whether the person originally receiving the certificate was or not duly entitled thereto as a citizen of Texas, residing to the west of said line at the time of its issuance.

Sec. 2. It shall be the duty of the District Attorney to defend such suits, for which he shall be entitled to a fee of ten dollars; or in his absence or inability to attend, the Court shall appoint some competent Attorney to defend the same, who shall be entitled to the same fee; and such fee, together with all costs incurred, shall be adjudged against and paid by the applicant in all cases; provided, that the costs in any case under this act shall not be adjudged against any applicant who shall sustain his application.

Sec. 3. That it shall be the duty of the Judge, when the jury shall find in favor of the applicant, to cause to be issued to him a certificate thereof, under the seal of the Court, and it shall be the duty of the Commissioner of the General Land Office, upon the presentation of said certificate, to issue to the said applicant, his heirs or assigns, a patent for the lands duly surveyed by virtue of the said original certificate of head-right.

Sec. 4. That this act take effect from and after its passage.

Approved, February 2, 1852.

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## CHAPTER LV.

### An Act to encourage the Reporting of the Decisions of the Supreme Court.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Governor is hereby authorized and required to subscribe for three hundred copies of each succeeding volume of the Reports of the Decisions of the Supreme Court, which shall be prepared under the direction of said court, and for which the Reporter of said Decisions shall be paid the sum of three dollars and a half per page for as many pages as shall be contained in one copy of each volume, and the Comptroller of

Public Accounts shall issue warrants for the same, upon the certificate of the Secretary of State, that said books, printed in small pica type, the pages not less in size than those of the reports already published, and neatly bound in law sheep, have been deposited in his office, and specifying the number of pages each volume contains.

Sec. 2. A sufficient amount for the purposes hereinbefore mentioned, is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Approved, February 3, 1852.

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## CHAPTER LVI.

An Act to define the time of holding the Courts in the Twelfth Judicial District.

Section 1. Be it enacted by the Legislature of the State of Texas, That the District Courts in the Twelfth Judicial District shall commence and be holden as follows, to-wit:

In the county of Kinney on the first Mondays in March and September, and may continue in session one week.

In the county of Webb on the second Mondays after the first Mondays in March and September, and may continue in session two weeks.

In the county of Starr on the fourth Mondays after the first Mondays in March and September, and may continue in session two weeks.

In the county of Hidalgo on the sixth Mondays after the first Mondays in March and September, and may continue in session one week.

In the county of Cameron on the ninth Mondays after the first Mondays in March and September, and may continue in session four weeks.

Sec. 2. That all laws and parts of laws contrary to the provisions of this act are hereby repealed, and that this act take effect from and after its passage.

Approved, February 3, 1852.

CHAPTER LVII.

An Act\* Confirming the action of the Auditor and Comptroller, under the provisions of an act of the Legislature to provide for ascertaining the Debt of the late Republic of Texas, approved March 20th, 1848, and the act supplementary thereto, approved February 8th, 1850.

Seciton 1. Be it enacted by the Legislature of the State of Texas, That the rate of payment and classification assigned to each class of debt of the late Republic, by the Auditor and Comptroller, under the provisions of an act entitled an act for ascertaining the debt of the late Republic of Texas, approved March 20th, 1848, and the act supplementary thereto, approved February 8th, 1850, as reported by said officers in their report to Legislature, of the date 12th of November, 1851, is hereby recognized and adopted by the State of Texas; and the value assigned to each class of liabilities by said officers in their report aforesaid, is what the State of Texas recognizes as due to the respective claimants.

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\* Note.—This act was vetoed by the Governor, and became a law on the second Monday of February, 1852, having passed both Houses of the Legislature by a Constitutional majority.

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CHAPTER LVIII.

An Act requiring the Commissioner of the General Land Office to issue Patents for four leagues of the School Lands of Washington County.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office is hereby authorized and required to issue a patent or patents to the county of Washington, upon the location and survey of four leagues of land, the School Lands of said county, and located within the limits of Fisher and Miller's Colony contract; provided, that said location does not conflict with the sectionized

part of said colony; provided, that nothing herein contained shall be so construed as to interfere with any rights which may have accrued to other parties before the passage of this act.

Sec. 2. This act shall take effect from its passage.

Approved, February 5, 1852.

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## CHAPTER LIX.

### An Act to create the County of Orange.

Section 1. Be it enacted by the Legislature of the State of Texas, That from and after the passage of this act, all that portion of the territory, part of the county of Jefferson, and included within the following limits, to-wit: Beginning at the mouth of Big Alabama creek, from thence east with the line of Jefferson and Jasper counties to the Sabine river, thence down said river with its meanders to Sabine Lake, thence west to the mouth of the Neches river; thence up said river with its meanders to the place of beginning, be, and the same is hereby erected into, and constituted a separate county, for judicial and other purposes, which are now exercised and enjoyed by the several counties of this State.

Sec. 2. That it is hereby made the duty of the District and County Clerks of the county of Jefferson, immediately after the organization of the county of Orange, to forward the unfinished business which may be in the District and County Courts of Jefferson county, in which the citizens of the county of Orange are interested to the proper authorities of Orange county, upon the **payment of costs.**

Sec. 3. That the town of Madison, alias Green's Bluff, be, and it is hereby made the Seat of Justice of said county, and shall be styled "Madison." That the District and County Courts shall be holden at that place, and all officers who by law are required to keep their offices at the County Seat, shall keep them at the town of Madison.

Sec. 4. That W. B. Ellis, C. S. Hunt and A. H. Reading be, and they are hereby appointed Commissioners, with full power and authority to organize the said county of Orange, and it shall be their duty as soon as practicable, after giving the notice required by law, to open and hold an election for Chief

Justice and County Commissioners, Sheriff, Clerk of the District and County Courts, and all other county officers; they shall receive any donation or donations of land for the use of said county, or may purchase any quantity of land not exceeding three hundred and twenty acres for that use, and shall lay the same off into suitable lots, and sell the same for the benefit of said county, and such other incidental expenses to creating and organizing said county; that said Commissioners shall make annual reports to the County Courts of their proceedings, and at the end of two years they shall turn over all things under their control into the County Court.

Sec. 5. That the Commissioners appointed by this act, shall, before entering upon the duties of their office, take and subscribe an oath for the faithful and impartial discharge of their duties, which oath shall be taken before some Justice of the Peace of Jefferson county, and filed with the Clerk of the County Court of Orange county, and said Commissioners are hereby authorized and empowered to qualify the first Chief Justice and other officers of said county of Orange.

Approved, February 5, 1852.

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## CHAPTER LX.

### An Act to create the County of Burnet.

Section 1. Be it enacted by the Legislature of the State of Texas, That all the territory comprised within the following limits, to-wit: Beginning at the west corner of John Carother's league, No. six, on the north fork of the San Gabriel river, thence south 26 degs. west to the Colorado river; thence across and down the same to the northeast corner of A. Willims' survey, number nineteen; thence south to its south-east corner; thence south 30 degs. west to the north-east line of Hays county; thence to the north corner of Hays county; thence with its north-west line, eight miles; thence west to the line of Traivs district, running north 17 degs. east, and with that line to the Colorado river; thence across and up the same with its meanders, to the upper corner of Sally House's (widow of James House,) league number fourteen; thence east to a point north 30 degs. west from the point on the bank of the Lampas-

sas, where the lower line of W. P. Reese's survey, number twelve, of three hundred and twenty acres, crosses the same; thence south 30 degs. east to that point, and continuing in the same course to a point north 45 degs. east from the place of beginning; thence south 45 degs. west to the place of beginning, shall be erected into and constituted a new county, by the name and style of Burnet.

Sec. 2. That Logan Vandever, William H. McGill and R. H. Hall be, and they are hereby appointed Commissioners with full power to organize the said county of Burnet, and it shall be their duty as soon as practicable, after giving the notice required by law, to open and hold an election for Chief Justice and County Commissioners, Sheriff, Clerk of the District and County Courts, and all other County officers, and shall have power to qualify them as the law directs.

Sec. 3. That the County Seat of said county of Burnet shall be located on the league of land known as the Hamilton league on Hamilton's creek, and shall be called Hamilton, provided, the owner or owners of said Hamilton's league shall donate and convey to said county, ten town lots of an average quality, within the limits of the site selected for said County Seat, and also one hundred acres of timbered land on said league, to be selected for the use of said county by the Chief Justice and County Commissioners.

Sec. 4. That it shall be the duty of the Chief Justice and County Commissioners, so soon as they are qualified, to proceed to select the site for the County Seat of said county, as herein provided, to lay off said town, to select and designate the land and lots herein provided, for the use of said county, and to erect, or cause to be erected suitable public buildings for the use of said county.

Sec. 5. That the Commissioners appointed by this act to organize said county, shall, before entering upon the duties of their office, take and subscribe an oath before some competent authority, that they will well and truly, faithfully and impartially discharge their duty, and so soon as they have discharged the duties herein assigned them, their office shall cease, and said county shall thereafter enjoy and exercise all the rights, powers and privileges of other counties of this State.

Sec. 6. That this act take effect and be in force from and after its passage.

Approved, February 5, 1852.



CHAPTER LXI.

Joint Resolution.

Section 1. Be it resolved by the Legislature of the State of Texas, That application in behalf of this State be immediately made to the Congress of the United States, through our Senators and Representatives in Congress, requesting that honorable body to make an appropriation of twenty-six thousand and seventy-five dollars, the same being due from the United States to this State, as a balance of the claim liquidated and established between the two Governments prior to annexation, in the case of the recapture of goods by citizens of the United States, introduced into Texas in contravention of her revenue laws, and seized by her collector of customs at Bryerly's landing on Red River, in the spring of eighteen hundred and forty-three.

Sec. 2. Be it further resolved, That the message and the documents referred to, applicable to this case, and the report of the committee, be printed, and copies furnished to each of our Senators and Representatives in Congress.

Approved, February 5, 1852.

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CHAPTER LXII.

An Act to legalize the official acts of Talbot Chambers, as Commissioner of Titles for Milam's Colony.

Section 1. Be it enacted by the Legislature of the State of Texas, That all titles now on file in the General Land Office, issued by Talbot Chambers, as Commissioner for the Colony of Benjamin R. Milam, to actual settlers or colonists who were, or afterwards became citizens of Texas, shall be as valid as if issued by a legally authorized commissioner; but this act shall not be so construed as to confirm any title which has been obtained by fraud or misrepresentation of the grantee, nor any title or grant over one league and labor; nor shall it extend to any title now in litigation, during the pendency of the suit.

Sec. 2. The State of Texas does hereby relinquish to the

original grantees, all her right to the lands embraced in the titles validated by the first section of this act; and that this act take effect from its passage.

Approved, February 5, 1852.

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### CHAPTER LXIII.

#### An Act making an appropriation to complete the General Land Office.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of five thousand five hundred dollars be, and the same is hereby appropriated, to be expended under the direction and supervision of the Commissioner of the Land Office as hereinafter provided, for the erection of additional rooms to the main building of said Land Office, and for the construction of a cistern and such other appurtenances as are indispensable to the convenience and comfort of the persons employed in said office.

Sec. 2. That it shall be the duty of the Commissioner of the Land Office, to draft a plan for the said additional rooms, and advertise in as many of the public newspapers as he may deem necessary, for four weeks, for sealed proposals for said work, to be opened and examined on a day to be specified in said advertisement, in presence of the said Commissioner, Governor and Comptroller of Public Accounts, who, or a majority of whom, shall determine what person or persons are the cheapest and best bidders, having reference as well to the architectural skill and pecuniary ability of the respective bidders, as to the price at which the work is proposed to be done.—When the successful bidder shall be determined, as herein provided, he shall be required to enter into bond in the sum of ten thousand dollars, payable to the State of Texas; conditioned that if he fail to complete the buildings or rooms in the manner and by the time herein specified, he shall forfeit and pay all such damages as may be awarded against the obligors to said bond.

Sec. 3. That the said Commissioner shall be, and he is hereby authorized, to draw from time to time, upon the Comptroller

of Public Accounts in favor of the person or persons contracting to do said work, specifying in said drafts the consideration; which said drafts shall be paid as all other monies are required by law to be paid out of the Treasury of the State: provided, that no draft shall be thus drawn in advance of work actually performed to the value of such draft; and provided, further, that whenever there shall be an application for any portion of the price of building said additional rooms, the said Commissioner, Governor and Comptroller, or any two of them, shall inspect the work upon which the same is proposed to be drawn, and determine the amount to be drawn thereon, which said amount shall be charged on account of said contractor or contractors and his or their securities.

Sec. 4. That if within one month after such contract has been taken, the contractor or contractors shall not have entered upon the work, the contract will be forfeited by him or them, and the Commissioner, Governor and Comptroller shall immediately proceed without advertisement, to let the contract to some other person.

Sec. 5. That the additions or rooms to the said Land Office, herein provided for, shall be fire-proof, and the materials of the same character, and the workmanship equal to the main building; and shall be completed by the first day of November, A. D. one thousand eight hundred and fifty-two.

Sec. 6. That the Commissioner of said Land Office shall be, and he is hereby authorized to contract individually for the construction of a cistern or cisterns for the use of the Land Office, and for such other appurtenances to the same, as in his judgment may be necessary for the convenience and comfort of those engaged in said office; and that for these purposes he be authorized to draw for any portion of the amount appropriated by the first section of this act, not to exceed five hundred dollars.

Sec. 7. That the said sum of five hundred dollars, or so much thereof as may be necessary, mentioned in the first section of this act, be paid out of any money in the Treasury not otherwise appropriated; and that this act take effect from its passage.

Approved. February 5, 1852.

## CHAPTER LXIV.

An Act to amend the third section of an act providing for the transfer of the records of Administrators to new Counties, approved 13th May, 1846.

Section 1. Be it enacted by the Legislature of the State of Texas, That the third section of an act providing for the transfer of the records of administrators to new counties, approved 13th May, A. D. 1846, be so amended as to read as follows: Section 3. In all cases where the papers and proceedings, relating to the settlement of an estate, shall be transmitted to any court in the manner provided for in this act, such estate shall be proceeded in and settled in the Probate Court of such county, in like manner as if the settlement of such estates had been originally commenced in such county, and the transcript of the record transmitted in the manner provided for in this act, shall have the same force and effect in evidence as the record itself might or could have.

Approved, February 9, 1852.

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CHAPTER LXV.

Joint Resolution, requesting the Governor to solicit the President of the United States to cause the limits of the 8th Military Department to be so extended as to embrace the entire State of Texas.

Whereas, in the opinion of this Legislature, the interests of this State would be greatly promoted by the extension of the 8th Military Department throughout the limits of this State, by which a large number of our frontier citizens would find security and protection for their persons and property; therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That the Governor be requested to solicit the President of the United States to cause the limits of the 8th Military Department to be so extended as to embrace within said department the entire State of Texas, or at least all that portion of the State lying on the Rio Grande, and to the south-east corner

of the territory of New Mexico; provided, the same shall not interfere with the established policy of the General Government.

Sec. 2. That the Governor of this State be requested to forward a copy of these resolutions to each of our Senators and Representatives in the United States Congress, and that they be requested to use their influence in behalf of the same.

Approved, February 9, 1852.

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## CHAPTER LXVI.

An Act to authorize the Commissioner of the General Land Office to issue patents on Certificates issued by the Board of Land Commissioners of Upshur County, under certain restrictions.

Whereas, it appears that the Clerk of the Board of Land Commissioners for Upshur county, has failed and neglected to make due returns to the Commissioner of the General Land Office, of the certificates issued by said Board; and whereas, it further appears that the records of the Board of Land Commissioners aforesaid have been kept in an imperfect and informal manner, inasmuch as said records do not exhibit the numbers and dates of the certificates issued by said Board, together with the quantities of land for which said certificates were issued, by reason of which neglect and informality in said records, returns cannot now be made in due form to the Commissioner of the General Land Office, of the certificates issued by said Board; and whereas, by reason of the neglect and informality aforesaid, many citizens to whom certificates were issued by said Board, have been prevented from receiving titles for the lands located and surveyed by virtue of said certificates, although said citizens have made all proof required of them by law, and are justly entitled to the lands claimed by them by virtue of the certificates aforesaid; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That all persons who have received unconditional certificates from the Board of Land Commissioners of Upshur

county, and who cannot obtain patents for the reason given in the preamble of this act, may receive their patents from the Commissioner of the General Land Office, upon complying, on their part, with the provisions of an act entitled "an act to authorize the Commissioner of the General Land Office to issue patents on certificates issued by the Board of Land Commissioners of Robertson county, under certain restrictions;" and that the provisions of the above recited act shall apply, so far as the same may relate to, or be in any way applicable to persons desiring to avail themselves of the provisions of this act.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved, February 9, 1852.

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## CHAPTER LXVII.

An Act to authorize the County Court of Limestone County to levy and cause to be collected, Toll on all persons, horses, cattle, hogs, sheep, carriages and wagons, passing over the bridge recently built across the Navisoto river, at Springfield.

Section 1. Be it enacted by the Legislature of the State of Texas, That the County Court of Limestone county be, and they are hereby authorized and empowered to levy, and cause to be collected, toll on all persons, horses, cattle, hogs, sheep, carriages and wagons, which may pass over the bridge now built across the Navisoto river at Springfield; said toll to be collected in the manner and under the restrictions following: The said Court shall, at least once in each and every year, cause said bridge to be let out to the highest bidder, for any term not to exceed one year, upon such payments and security as it may direct; the funds to be raised by said letting to be placed in the County Treasury, and at the disposal of the said County Court; and the person or persons with whom said contract, or contracts of letting may be so made, are hereby authorized and empowered to collect, receive and appropriate to his, her, or their own use, the toll levied as aforesaid, by said County Court, for and during the term of said letting:

provided, however, that the person or persons so contracting shall, at the time of said letting or lettings, enter into bond, with security, to be approved by said Court, in any sum not less than one thousand dollars, that may be directed by said Court, payable to the Chief Justice of said county, and his successors in office, conditioned, that the person or persons so contracting, shall keep said bridge in good repair during the time of letting; and should any person or persons sustain damages in consequence of said contractor or contractors not having complied with the conditions of his or their bond, the person or persons so damaged may sue upon the said bond in the name of the Chief Justice of said county, and recover judgment for the damages so sustained; and further provided, that nothing in this section shall be so construed as to authorize the collection of toll from any person who is a citizen of said county of Limestone, nor to authorize the allowing of damages to any person being a citizen of said county, for injury sustained in passing over said bridge.

Sec. 2. The rate of toll to be levied and established by the County Court of said Limestone county, before the letting of said bridge, as provided in the first section, which rate, when established, shall be in force for twelve months from the letting of said contract.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved, February 9, 1852.

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## CHAPTER LXVIII.

An Act to remove from Austin county, and place in the General Land Office, certain land papers.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be authorized and required to remove from the county seat of Austin county, and place in the Land Office, the acts of the Ayuntamiento, and such other papers in the County Clerk's office of Austin county of a public nature, that should be deposited in the General Land Office.

Sec. 2. The sum of one hundred dollars, or so much thereof as is necessary to carry into effect this act, is hereby appropriated out of any money not otherwise appropriated, in the Treasury of the State.

Sec. 3. And this act shall take effect and be in force from and after its passage.

Approved, February 9, 1852.

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## CHAPTER LXIX.

### An Act concerning Surveys of Land.

Section 1. Be it enacted by the Legislature of the State of Texas, That the field-notes of all surveys made previous to the passage of this act, shall be made out and returned in the manner now required by law, to the General Land Office, on or before the thirty-first day of August, 1853, or they shall become null and void, and the said surveys shall become vacant land, and be subject to be relocated and surveyed as in other cases, by any persons holding a genuine land certificate or other legal evidence of claim to land.

Sec. 2. That any person holding a genuine certificate or other legal evidence of right to land under the Republic or State of Texas, and having a survey made by virtue of the same, the field-notes of which may not have been returned to the General Land Office before the period prescribed by this act, shall have the right to relocate the same certificate or other evidence of legal right to land, upon the same survey; but without being compelled to have the same re-surveyed; provided, said survey shall not have been previously located by some other person by right of a genuine land claim.

Sec. 3. That any person wishing to avail him or herself of the privilege of re-locating the same land claim upon the same land, as permitted by the second section of this act, shall present his or her land claim, or cause the same to be done for that purpose, to the District or County Surveyor, as the case may be, of the district or county where the field-notes were first recorded, who shall duly enter such re-location upon the record of field-notes of the office, and duly certify the same



to the Commissioner of the General Land Office, which shall be sufficient authority for him to issue the patent for the land so re-located, as in other cases; provided, the field-notes of survey and certificate of re-location shall be filed in the General Land Office within one year from and after said re-location.

Sec. 4. That all surveys represented upon the maps of the General Land Office, the field-notes of which shall not be returned to the General Land Office under the provisions of this act, and for which there are no titles on file in said office, shall be null and void, and be stricken from the maps of said office; provided, this section shall not include surveys made for colonists prior to the closing of the Land Offices in 1835.

Sec. 5. That the field-notes of all surveys hereafter made, shall be returned to, and filed in the General Land Office within twelve months from the date of survey; provided, that the field-notes of surveys made by virtue of certificates issued to claimants in Fisher and Miller's Colony, Castro's, Mercer's or Peter's Colonies, may be returned at any time before the first of March, 1854.

Sec. 6. That hereafter all government dues on land shall be paid to the Commissioner of the General Land Office in accordance with the provisions of a joint resolution, approved December 31st, 1849, entitled a joint resolution granting further time for the payment of government dues and the return of field-notes.

Sec. 7. That a fee of one dollar shall be paid to the County or District Surveyor, upon his making record of the re-location of any surveys under the provisions of this act.

Sec. 8. That all lands heretofore located by virtue of any genuine claim to land, shall be surveyed within twelve months from the passage of this act, and all lands which may be hereafter located shall be surveyed within twelve months from the date of location, or the said locations, in either case, shall be null and void, and the lands be subject to re-location and survey as other vacant and unappropriated lands.

Sec. 9. That if any District or County Surveyor shall fail, neglect or refuse, when the amount of lawful surveying fees of any location of land may be tendered to him by any person legally entitled to the survey, to make, or cause the survey of the same to be made within one month of the time of the tender to him of said surveying fees, he shall be liable on his official bond to the party or parties legally entitled to the same, in the amount of the damages or injury said party or parties

may sustain by reason of such neglect, refusal or failure, to be recovered before any competent tribunal; provided, this section shall not apply to any grants made to colonists in the Colonies of Austin, De Witt, De Leon and Milam.

Sec. 10. That this act take effect and be in force from and after its passage.

Approved, February 10, 1852.

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## CHAPTER LXX.

An Act concerning Writs of Certiorari to Justices Courts.

### IN CIVIL CASES.

Section 1. Be it enacted by the Legislature of the State of Texas, Any party, his agent or attorney, who is aggrieved by the final judgment of any Justice of the Peace in a civil case, may remove the same to the District Court within ten days from the rendition of such judgment, by filing application in writing in the District Court of the county in which the judgment is rendered, setting forth that the applicant believes injustice has been done him by such judgment, and praying for a writ of certiorari, to remove the cause, and by also filing in said court, a bond with two or more good and sufficient sureties, to be approved by the Clerk, in a sum of at least double the amount of the judgment complained of, with interest and costs, payable to the adverse party, and conditioned, that the applicant shall prosecute his suit to effect, and shall pay and satisfy the judgment or decree, which may be rendered by the District Court against him and his sureties in the bond; provided, that no party shall be entitled to a writ of certiorari after taking a stay of execution; and provided further, that this act shall not be construed to repeal or interfere with the sixty-seventh section of the act organizing Justices Courts and defining the powers and jurisdiction of the same.

Sec. 2. Upon the filing of the application in writing and approved bond, the Clerk shall issue a writ of certiorari, directed to the Sheriff of the county, commanding him to cite the Justice of the Peace, by serving him with a copy of such writ, to make out a certified transcript of all the entries in the

cause on his docket, and to transmit the same, with all the original papers, to the District Court, on or before the first day of the term next thereafter; and the Clerk shall also issue a citation to the adverse party, as in other cases; and upon service of such writ of certiorari being made upon the Justice of the Peace, he shall stay further proceedings on the judgment, and forthwith comply with said writ, by transmitting all the original papers, and a certified transcript of the entries as aforesaid, to the District Court, on or before the first day of the next term of said Court; but if there is not time for such transcript and papers to be filed at such first term, then they shall be so filed at the next succeeding term of said Court, and the Clerk shall docket the case in the name of the plaintiff and defendant as it stood in the court below.

Sec. 3. All causes so removed shall be tried anew, and if no appearance is entered on the docket for the defendant in the original suit, on or before the fourth day of the term of the court, the plaintiff may at any time after said fourth day, have a final judgment against the defendant; and if the cause of action is liquidated and proved by any instrument in writing, the Clerk shall, unless a jury is asked for by either party, assess the damages of the plaintiff; provided, however, that when the cause is removed to the District Court by the plaintiff in the original suit, judgment shall not be taken against the defendant unless he shall have been served with process, as prescribed in the next preceding section. Causes removed to the District Court, in which an appearance is entered on the Docket, on or before the fourth day of the term, shall be taken up and disposed of in their regular order.

Sec. 4. On the trial of causes so removed, when either party shall make oath that he has no other evidence to prove any fact material to the prosecution or defence of his suit, except his own oath, he shall be sworn and examined touching such fact; and the opposite party in such cases, shall have the privilege of being sworn as to the same fact.

Sec. 5. When a cause is removed from a Justices Court to the District Court, by the party against whom the judgment below was rendered, and the judgment in the District Court is against him for the same, or a greater amount than the judgment of the Justice, the District Court shall add ten per cent damages on the amount of the judgment below, and costs in both Courts; but if in such case the judgment of the District Court shall be against him for a less amount than the judgment of the Justice, then the party so removing the cause,

shall recover his costs in the Court below, but shall pay the costs of the District Court. Where the cause is removed by the party in whose favor the judgment of the Justice is rendered, and the judgment of the District Court is in his favor for a greater amount than the judgment of the Justice, he shall recover his costs in both courts; but if the judgment of the District Court in such case be in his favor for the same or less amount than the judgment of the Justice, he shall recover the costs of the Justice's Court only, and shall pay the costs of the District Court.

Sec. 6. When the judgment of the District Court is against the party removing the cause, it shall be rendered jointly and severally against all the obligors in the bond of such party.

#### IN CRIMINAL CASES.

Sec. 7. Where any free person shall be convicted in a Justice's Court of any offence, which a Justice of the Peace has jurisdiction finally to try, and shall feel himself aggrieved by such conviction, such person, his agent or attorney, may remove the case to the District Court within ten days from such conviction, by filing application in writing in the District Court, setting forth that he believes injustice has been done him by the judgment, and praying for a writ of certiorari to remove the case to the District Court.

Sec. 8. Upon the filing of such application in writing, the Clerk shall issue a writ of certiorari, directed to the Sheriff of the county, commanding him to cite the Justice, by serving him with a copy of such writ, to make out a certified transcript of all the entries in the case on his docket, and to transmit the same, with all the original papers to the District Court, on or before the first day of the term next thereafter.

Sec. 9. Where a Justice of the Peace shall be served with a writ of certiorari, as prescribed in the preceding section, he shall stay further proceedings on the judgment, and forthwith obey said writ; and if the defendant offer sufficient bail, a recognizance shall be taken from him, with two or more good and sufficient sureties, to be approved of by the Justice, in such sum as he may direct, not less than one hundred, nor more than two hundred dollars, conditioned, that the defendant shall appear and answer the charge against him, before the District Court, on the first day of the next term thereof, and not depart the Court without leave, and that he will abide

by the judgment of the District Court, and pay such fine and costs as may be adjudged against him, and thereupon the defendant shall be discharged; but if sufficient bail be not offered, the defendant shall be committed to the jail of the county, there to remain until he shall be discharged by due course of law.

Sec. 10. All cases removed to the District Court under the provisions of the three preceding sections, shall be tried without further information or indictment, than the complaint filed in the Justice's Court, in the same manner as other information or indictments are tried; and if the party be convicted in the District Court, the judgment for such fine and costs as may be assessed shall be entered against all the obligors in the recognizance.

Sec. 11. This act shall be in force from its passage.

Approved, February 10, 1852.

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## CHAPTER LXXI.

An Act to relinquish the Right of the State to certain Lands therein named.

Section 1. Be it enacted by the Legislature of the State of Texas, That the State of Texas hereby relinquishes all her right and interest in the following described lands to the original grantees thereof, their heirs and legal assigns, to wit:

### COUNTY OF WEBB.

- (1) Antonio Guerra, three porciones, jurisdiction of Palafox;
- (2) Heirs and assigns of Manuel Garza, Jose Maria de la Garza and Pablo Mendiola, three porciones, jurisdiction of Laredo;
- (3) Heirs and assigns of Joaquin Galan, one porcion, jurisdiction of Palafox;
- (4) Jose Miguel Dias, porcion No. thirty-five, jurisdiction of Laredo;
- (5) Dolores Garcia, porcions sixteen, seventeen, forty-four and forty-five, Laredo;
- (6) Antonio Gonzales, six leagues;

(7) Felipe de la Pena, five leagues, called "Alverca de Abajo."

(8) Blas Trevino, porcion No. forty-six, Laredo;

(9) Jose Antonio Trevino, porcion called "Paraje de Abiones."

(10) Maria Jesus Sanchez, porcion No. twenty-two, Laredo;

(11) Joaquin Garcia, porcion No. nineteen, Laredo; Bautista Garcia, porcion No. twenty, and Leonardo Garcia, porcion No. twenty-one, Laredo;

(12) Joaquin Cuellar, porcion No. thirty-five, Laredo;

(13) Blas Maria Dias, "Las Islitas," four porciones;

(14) Jose Cuellar, "La Huerta," fifteen million three hundred thousand square varas of land;

(15) Eduardo Davila, five leagues, called "San Antonio de Mira Flores;"

(16) Santiago Cuellar, porcion No. four, Guerrero;

(17) Miguel Alegria de Lascano, porcion No. six, Guerrero;

(18) Jose Cayetano Canales, porcion No. thirty-eight, Guerrero;

(19) Jose Luis Ramirez, porcion No. five, Guerrero;

(18) Bartolome Cuellar, porcion No. thirty-seven, Guerrero;

(21) Miguel Cuellar, porcions Nos. one and two, Guerrero;

#### COUNTY OF STARR.

(1) Santos Moreno, four sitios, called "La Trinidad;"

(2) Ysidro Guerra, four sitios, called "Palo Blanco;"

(3) Juan Jose Guerra, five sitios, called "Charco Redondo," or "Tule;"

(4) Antonio Longorio, four sitios, called "Los Sances;"

(5) Jose Antonio Cuellar, two leagues, called "Palo Blanco;"

(6) Francisco Farias, four leagues, called "Santa Cruz;"

(7) Andres de la Garza, three leagues, called "Las Comitas;"

(8) Jose Antonio Morales, five leagues, called "El Venadito;"

(9) Ygnacio Rivas and the heirs of Maximo Villareal, three sitios, called "San Rafael;"

(10) Ygnacio Rivas, two leagues, part of the "San Rafael" tract;

(11) Pilar Sarete y Bayarena, three sitios, called "La Alameda;"

(12) Luis Vela, five sitios, called "El Sordo;"

- (13) Anastacio Garcia, five leagues, called "Charco Redondo;"
- (14) Onofre Garcia, four sitios, called "El Grullo;"
- (15) Ygnacio Rivas, two and a quarter leagues, called "La Blanca;"
- (16) Julian Farias, four sitios, called "San Roman;"
- (17) Victoriano Gonzalez, four and a fraction leagues, called "Las Cuevitas;"
- (18) Rafael Pena, five leagues, called "Las Moritas;"
- (19) Rafael Ramirez, ten and one-tenth leagues, called "San Pedro de Charco Redondo," and "Santa Rosalia;"
- (20) Antonio Canales Salinas, two leagues, called "Sacatosa;"
- (21) Bernardo Gutierrez, porcion No. fourteen; Jose Clemente Gutierrez, porcion No. fifteen; Bartolome Gutierrez, porcion No. sixteen, and Cristoval Ramirez, porcion No. seventeen—all of the jurisdiction of Guerrero;
- (22) Ygnacio Pena, four sitios, called "Palo Blanco;"
- (23) Jose Marcello Ynojosa, fourteen leagues; Santos Garcia, five leagues, and Diego Ynojosa, five leagues;
- (24) Guadalupe Sanchez, five leagues, called "La Rucia;"
- (25) Xavier Vela, four leagues, called "San Antonio Viejo;"
- (26) Antonio Pena, four and a fraction leagues, called "Palo Blanco," and Francisco Pena, one and a fraction leagues, called "Palo Blanco;"
- (27) Ysidro Garcia, five sitios, called "Las Mestenas;"
- (28) Antonio Ramirez, two-thirds of a sitio, called "Palitos Blancos;"
- (29) Gregorio Vela, two leagues, called "Santa Teresa;"
- (30) Juan Flores, four leagues, called "El Javeli;"
- (31) Jose Luis Salinas, five leagues, called "San Antonio Baluarte;"
- (32) Ramon Garza, two and a half leagues, called "El Paisano," or "Los Almos;"
- (33) Gregorio Sais, four sitios, called "La Sal Colorado;"
- (34) Antonio Garcia, five leagues, called "El Rendado;"
- (35) Antonio Ysaguerre, four leagues, called "San Domingo de Arriva;"
- (36) Jose Maria Garcia y Garcia, five leagues, called "La Noriade San Domingo;"
- (37) Rafael Garcia, five leagues, called "La Mestena;"
- (38) Rafael Garcia Salinas, five leagues, called "La Mestena y Gonzalena;"

- (39) Jose Miguel Ramirez, eight leagues, called "Agua Nueva de Arriva;"
- (40) Juan Leal, porcion fifty-five, Mier;
- (41) Juan Benevides, porcion seventy-seven, and Francisco Villareal, porcion one hundred and eight, Camargo;
- (42) Francisco Guerra, porcion sixty-six, Mier;
- (43) Mariano Arispe, one-half of porcion No. twenty-nine, Guerrero;
- (44) Ysabel Maria Sanches, porcion twenty-one, Guerrero;
- (45) Mateo Pena, porcion thirty-two, Guerrero;
- (46) Juan de Dios Garcia, porcion No. fifty-nine, Mier;
- (47) Diego Ynojosa, porcion sixty-eight, Mier;
- (48) Antonio Garcia, porcion sixty-five, Mier;
- (49) Joaquin Garcia, porcion sixty-two, Mier;
- (50) Jose Antonio Guajardo, porcion one hundred and eleven, Camargo, and porcion seventy-eight, Mier.
- (51) Heirs and assigns of original grantees of porciones Nos. seventy, seventy-one, and seventy-two, Mier, and one hundred and nine and one hundred and ten, Camargo;
- (52) Antonio Ramirez, porcion sixty-seven, Mier;
- (53) Miguel Saens, porcion seventy-three, and Florencia Gonzales, porcion No. seventy-five, Mier;
- (54) Nicolas Zapata, porcion seventy-seven, Camargo;
- (55) Geronimo Saens, porcion seventy-four, Mier;
- (56) Jacinto de la Pena, porcion twenty-five, Guerrero;
- (57) Jose Tabares, porcion twenty-seven, Guerrero;
- (58) Jose Cristoval Ramirez, porcion eighteen, Guerrero;
- (59) Rafael Vela, porcion twenty-six, Guerrero;
- (60) Jose Miguel Antonio Ramirez and Maria Rita Lopez, porcion seventy-six, Mier;
- (61) Juan Pantaleon, or Juan de Leon Ysaguiere, porcion fifty-six, Mier;
- (62) Joaquin Chapa, porcion fifty-eight, Mier, and Lazaro Vela, porcion fifty-seven, Mier;
- (63) Jacinto de la Pena, two-thirds of porcion No. twenty-five, Guerrero;
- (64) Isabel Gonzales, porcion twenty-eight, Guerrero;
- (65) Bartolome Travenio, porcion ninety-seven, Camargo;
- (66) Pedro Benavedis, porcion No. thirty, Guerrero;
- (67) Ihp. Santo Gutierrez, porcion No. twenty, Guerrero;
- (68) Jose Antonio Ochoa, one-half porcion twenty-nine, Guerrero;
- (69) Joaquin Pena, porcion twenty-one, Guerrero, and Juan Ihp. Benavides (Zuna), porcion twenty-three Guerrero;



- (70) Pedro Vela, porcion thirty-four, and Joaquin Cuellar, porcion thirty-five, Guerrero;
- (71) Ysidro Benavides, porcion twenty-four, Guerrero;
- (72) Maria Bartolo, porcion sixty-one, Mier;
- (73) Manuel Juarres, porcion thirty-one, Guerrero;
- (74) Blas Farias, porcion sixty, Mier, and Jose Cruz, porcion sixty-four, Mier;
- (75) Ygnacio Gutierrez, porcion sixty-three, Mier;
- (76) Marcelino Trevino, porcion thirty-three, Guerrero;
- (77) Maria Josefa Guerra, porcion nineteen, Guerrero;
- (78) Antonio Zamora, porcion fifty, Reynosa;
- (79) Diego Garcia, porcion seventy-eight, Camargo;
- (80) Juan Cisneras, porcion seventy-nine, Camargo;
- (81) Salvador Vela, porcion ninety, Camargo;
- (82) J. Antonio de la Garza Falcon, porcion eighty, and Juan Jose de la Garza Falcon, porcion eighty-one, Camargo;
- (83) Joaquin de la Garza Falcon, porcion one hundred and four, Camargo;
- (84) Maria Marcella Martinez, porcion eighty-three, and Antonio de la Rosa, porcion eighty-five, Camargo;
- (85) Cristoval Garcia, porcion seventy-six, Camargo;
- (86) Angustin de la Garza, porcion seventy-three, and Hose de Ynojoso, porcion one hundred and five, Camargo;
- (87) Francisco de la Garza, porcion seventy-one, Camargo;
- (88) Santiago Lopez, porcion ninety-two, and Josefa Benevides, porcion ninety-one, Camargo;
- (89) Ramon Quintanilla, porcion ninety-five, Camargo;
- (90) Pedro Lago, porcion seventy-four, Camargo;
- (91) Ventura Vela, porcion eighty-four, Camargo;
- (92) Heirs of Ygnacio Trevino, assignee of original grantees, porcions ninety-six, ninety-seven, ninety-eight, ninety-nine and one hundred, Camargo;
- (93) Ramon Gonzales, porcion seventy, Camargo;
- (94) ——— Hernandez, porcion seventy-two, Camargo;
- (95) Pedro Longoria, porcion ninety-four, Camargo;
- (96) Juan B. Villareal, porcion seventy-five, Camargo;
- (97) Jose Salvador de la Garza, porcion eighty-eight, and Juan Jose Salvador de la Garza, porcion eighty-nine, Camargo;
- (98) Matias Longoria, porcion ninety-three, Camargo;
- (99) Margarita Gonzales, porcion one hundred and three, Camargo;

(100) Francisco Antonio Villareal, porcion one hundred and eight, Camargo;

(101) Jose Salvador Garcia, porcion one hundred and nine, Camargo;

(102) Francisco Xavier Rodriguez, porcion eighty-six; Juan Flores de Villareal, porcion eighty-seven, and Miguel Perez, porcion one hundred and six, all of Camargo; and Francisco Cordente, five leagues, called "Santa Cruz de Concepcion," and Juan Manuel Ramirez, ten leagues, called "Agua Nueva;"

(103) Pedro de la Garza, six and a half leagues, called "Santa Rosa," and Alexandro Farias, four and a half leagues, called "San Jose;"

(104) Nicolassa Salinas, two and a half leagues;

(105) Ygnacio Flores, two leagues;

(106) Segundo Flores, two and a half leagues, "Los Guages;"

(107) Nicholas Garcia y Garcia, and Bruno Garcia y Garcia, fifteen leagues, called "Las Animas;"

(108) Teodora Garza, three leagues, called "El Alazan;"

(109) Nicolas Vela and Antonio Vela, porcion eighty-two, Camargo;

#### COUNTY OF CAMERON.

(1) Juan Antonio Villa, porcion sixty-four; Maria Ufarda, porcion sixty-five, and Jose Feliz, porcion sixty-six, all of the jurisdiction of Reynosa;

(2) Juan Jose Trevino, five leagues, called "Angostadero del Gato;"

(3) Miguel Ynojosa, five leagues, called "San Pedro de las Motas;"

(4) Alvino de la Garza, five leagues, called "La Parra;"

(5) Yrenio Gomez, five leagues, called "Borasco;"

(6) Xavier Salinas, five leagues, called "San Pedro de las Motas;"

(7) Martias Garcia, seven leagues, called "Palo Alto;"

(8) Pedro Villareal, three leagues, called "San Pedro de Caricitas;"

(9) Rafael Garcia, seven leagues, called "Santa Isabel;"

(10) Eugenio and Bartolome Fernandez, eleven and a half leagues, called Concepcion de "Caricitas;"

(11) Rafael Ramirez, eight leagues, called "Rincon de Peñascal," and Alvino de la Garza, five leagues and one labor, called La "Parra," the labor known as "Clark's Island;"

(12) Nicolas Balli and Juan Jose Balli, eleven and a half leagues, called "Padre Island;"

(13) Juan Jose Ynojoso de Balli, twenty-five and a half leagues, called "Llano Grande," and Rosa Maria Ynojosa de Balli, twelve leagues, called "Faria;"

(14) Jose Narciso Cabazos, one hundred and six and a half leagues, known as "San Juan de Caricitas;"

(15) Gregorio Comacho, porcion sixty-eight, Reynosa;

(16) Jose Maria Balli, porcion seventy-two, Reynosa;

(17) Antonio Velasco, porcion seventy, Reynosa;

(18) Juan Ynojosa, porcion sixty-seven, Reynosa;

(19) Salvador Bocanegra, porcion fifty-one, Reynosa.

(20) Gabriel Manguilla, porcion fifty-six, Reynosa;

(21) Domingo Fonseca, porcion sixty-seven, Reynosa;

(22) Narciso Cabazos, porcion seventy-one, Reynosa;

(23) Jose de la Cerda, Francisco Guajardo and Antonio Gutierrez, severally, porciones sixty-one, sixty-two and sixty-three, Reynosa;

(24) Torebio Zamora, porcion forty-nine, Reynosa;

(25) Nicolas Bocanegra and Ramon Manguilla, porciones fifty-eight and fifty-nine, Reynosa;

(26) Juan Vega and Antonio Villareal, porciones thirty-eight and thirty-nine, Reynosa;

(27) Anastacio Villareal, porcion forty-three, Reynosa;

(28) Javier Zamora, porcion forty-one, Reynosa;

(29) Dyonisio Ramirez, porcion seventy-eight, Reynosa;

(30) Yldefonso Quirva, porcion sixty, Reynosa;

(31) Miguel Cano, porcion No. forty-five; Dyonisio Zamora, porcion No. forty-two; Joaquin Ysidor Ponze, porcion No. forty-seven; Antonio Miguel Cano, porcion No. forty-four; Jose Matias de Tejernia, porcion No. forty-six; Antonio de los Santos, porcion No. seventy-three, and Lazero Flores, porcion No. seventy-six—all of the jurisdiction of Reynosa;

(32) Domingo de la Garza, five leagues, called "La Parra;"

(33) Lino Cabazos, two leagues, called "La Blanca;"

(34) Ramon Cabazos Guerra, five leagues, called "Santa Quit-  
eria;"

(35) Ygnacio Travenio, five and a half leagues, called "San Mar-  
tin;"

(36) Nicolas Zamora, one porcion; Jose Francisco de la Garza, one porcion, Reynosa.

(37) Benigno Leal, two leagues, called "Santa Ana;"

(38) Manuel de la Garza Lasa, six and a fraction leagues, called "Buena Vista;"

- (39) Manuel Gomez, fourteen leagues, called "Santa Anita;"
- (40) Vicente de Ynojosa, thirty-five leagues, called "Las Mes-  
tenas Pititas," and "La Abra;"
- (41) Juan Antonio Balli, five leagues, called "El Pastle;"
- (42) Jose Salvador de la Garza, fifty-nine and a half leagues,  
called "El Spiritu Santo."

## COUNTY OF NUECES.

- (1) Maximo Farias, two leagues, called "Presensas de Arriva;"
- (2) Marceleno Lopez, four leagues, called "Presenas;"
- (3) Antonio Ramirez, five leagues, called "Javoncillos;"
- (4) Manuel Farias, two and a half leagues, called "Paso Ancho  
de Arriva;"
- (5) Vicente Ynojosa, three and a fraction leagues, called "Las  
Anacuas;"
- (6) Miguel Gutierrez, two and a fraction leagues, called "Santa  
Gertrudes;"
- (7) Leonardo Salinas, five leagues, called "La Bereta;"
- (8) Andres Fernandes de la Fuentes, four leagues, called "Puer-  
tecitas;"
- (9) Leonardo Longoria de la Garza, six leagues, called "Rincon  
del Grullo;"
- (10) Rafael Garcia, five and a fraction leagues, called "Agua  
Dulce;"
- (11) Andres Trevinio, five leagues, called "Las Comitas;"
- (12) Bernardo Garcia, five and a half leagues, called "El Infer-  
nillo;"
- (13) Juan Jose Manuel de la Garza Falcon, four leagues, called  
"San Francisco;"
- (14) Ramon de Ynojosa, ten leagues, called "El Rincon de Cor-  
pus Christi;"
- (15) Jose Antonio Cabazos, eight and a fraction leagues, and  
Policarpio Farias, one league;
- (16) Vicente Ynojosa, six leagues, called "El Rincon del Ala-  
zan;"
- (17) Juan Jose de la Garza Montemayor, and his three sons,  
Jose Manuel, Perfecto and Augustin, sixteen leagues, called "Casa  
Blanca;"
- (18) Apolinario de la Garza, two leagues, called "Las Presenas;"
- (19) Vital de Ynojosa, — and one-half leagues, called "La An-  
ima Sola;"
- (20) Enrique Villereal, ten leagues, called "Rincon del Oso."

COUNTY OF KINNEY.

(1) Juan Francisco Lombrano, seven sitios, called "Las Islitas;"

(2) Antonio Rivas, twenty-five leagues, called "the Rivas grant."

Sec. 2. That it shall be the duty of those claiming any of the lands named in this act, to have the same surveyed by the District or County Surveyor of the County in which the same may be situated, and upon the return of the field-notes thereof to the General Land Office, the Commissioner is hereby authorized and required to have the same plotted on the maps of his office, and issue patents for the same in accordance with existing laws: provided, that no patent shall issue for a less amount than the original grant. That the owners of said lands shall be required to pay the taxes due on the same, from the date of the organization of the respective counties herein mentioned; which taxes shall be paid, and legal vouchers for the same exhibited to the Commissioner of the General Land Office, before the patent to the same shall issue.

Sec. 3. That in all cases where the original title papers of lands claimed by this act, (or which were exhibited to the Commissioners to investigate land titles west of the Nueces,) were lost by the wreck of the steamer Anson, the Commissioner of the General Land Office, and the Supreme and District Courts of this State, are hereby authorized to recognize as of equal validity, all authenticated copies that the parties may have been able to obtain.

Sec. 4. That the report of the Land Commissioners to investigate land titles in certain counties therein named, under the act approved February 8, 1850, shall be deposited with the Commissioner of the General Land Office.

Sec. 5. That the confirmation herein extended to the lands mentioned in this act, shall in no way be construed to interfere with any rights which may have accrued to other parties before the passage of this act, but the same shall remain without prejudice; provided, that nothing in this act shall be so construed as to relinquish the rights of the State to any of the Islands or Salt Lakes situated in the territory embraced in this act.

Approved, February 10, 1852.

## CHAPTER LXXII.

## An Act relating to Lands in Peter's Colony.

Whereas, the President of the Republic of Texas, by virtue of an act of the Congress of said Republic, entitled "an act granting lands to emigrants," dated February 4th, 1841, and a joint resolution of said Congress, approved January 16th, 1843, to modify the provisions of said act, entered into four contracts bearing date, the first contract August 30th, 1841, the second November 20th, 1841, the third, July 26th, 1842, and the fourth contract, January 20th, 1843; making together one contract with W. S. Peters and others, his associates and assigns and legal representatives, to colonize and settle a portion of the then vacant public domain of said Republic, lying upon the Trinity and Red rivers, being in said contracts particularly described by metes and bounds, and commonly called "Peters' Colony." Beginning at a point on Red River, in said fourth contract particularly defined, and running thence along the extreme eastern boundary of said grant, south one hundred miles; thence west one hundred and sixty-four miles; thence north to Red River; thence down said river by its course to the place of beginning; and,

Whereas, said contractors, W. S. Peters and others, their heirs or assigns and legal representatives, have organized and formed themselves by articles of association, into a company known and designated by the name and style of the "Texan Emigration and Land Company," and in pursuance of said laws and contracts, have entered upon said Colony and surveyed a large portion thereof, as is shown by their maps of survey, and have settled upon the lands so surveyed a large number of emigrant families; and

Whereas, it is proposed that said company shall relinquish to the State of Texas all the rights and interests accruing and belonging to them by the contracts aforesaid, except such rights and interests as are hereinafter reserved to said company, and grant to the colonists by them settled as aforesaid, the right to locate their claims under the acts of 21st January, 1850, relating to Peters' Colony, upon the lands which by said contract, are claimed to belong to said contractors, or their assigns, whereby said company allege they will be divested of a large amount of rich and valuable lands, and to receive therefor an equivalent in lands of less value; also, to release said colonists from the payment of a

large amount now alleged to be due from them to said company for surveying fees, and generally for the relief of said colonists and company, and to settle, adjust and effectually quiet the titles to lands in said colony or grant: Therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That whenever the agent of said company shall tender to the Commissioner of the General Land Office of this State a relinquishment, under his hand and seal, of all the rights and interests whatever, which said company have in said colony to the State of Texas, except such rights and privileges as are reserved, guaranteed and secured to said company in the several sections of this act, together with a release of all fees now alleged to be due and owing said company by said colonists, in consideration of such relinquishment and release, the Commissioner of the General Land Office shall immediately thereafter, and he is hereby required and directed to issue without delay, to said agent, for the use and benefit of said company, and in the name of the Trustees thereof or to their successors in office, certificates to the amount of seventeen hundred sections of land, in certificates for sections of six hundred and forty acres each, or half sections of three hundred and twenty acres each, as said agent may choose or prefer; and the agent of said company or trustees of the same shall, upon the receipt of the certificates herein provided for, pay to the Commissioner of the General Land Office the sum of three hundred dollars as a fee for the issuing of the certificates for the above mentioned seventeen hundred sections of land; provided, the relinquishment and release to the State, named in this section, shall be tendered to the Commissioner of the General Land Office within twenty days after the passage of this act.

Sec. 2. That all and each of said certificates, when issued to said agent by the Commissioner of the General Land Office as aforesaid, may be located upon any of the lands which have been surveyed or caused to be surveyed by said company within said colony, and including all lands and alternate sections reserved to the government of Texas as in said contracts directed, which are not settled upon or claimed by a colonist or colonists who are entitled to the same as colonists, by virtue of "an act to secure to all actual settlers within the limits of the Colony granted to Peters and others, commonly known as Peters' colony, the land to which they are entitled as colonists," approved January 21, 1850, and also upon any of the lands within the limits of said colony which have not been sur-

veyed by said company and which are not located upon or surveyed by any colonists of Peters' colony or his assigns, by virtue of any certificate given to said colonist by the Commissioner of that colony, Thos. Wm. Ward, or by virtue of certificates which may be issued to colonists of said colony as aforesaid, in pursuance of any act of the Legislature for the relief of any colonists not embraced and provided for in the act of January, 1850, or their assigns. Said certificates or any of them shall be assignable by endorsement of said agent or trustees of said company, by acknowledgement before any officer authorized by the laws of Texas to take acknowledgement of deeds.

Sec. 3. That all the lands lying within the limits and boundaries of said colony, and which by said contracts were reserved and set apart to the parties of the second part thereof, their associates and legal representatives, until the end of five years from and after the first day of July, 1843, shall continue to be reserved and set apart for the purposes herein named for the term or space of two years and six months from and after the passage of this act, and shall remain and be held by the State of Texas for the purposes herein provided until the expiration of said term. And the Commissioner of the General Land Office is hereby prohibited from issuing patents to any lands located in said colony other than those lands located and surveyed by said colonists, and returned, as hereinafter provided, to the Commissioner of the General Land Office, as lands to which they are entitled as colonists, and those located and surveyed, or caused to be surveyed therein by said company or their assigns, in virtue of said certificates to be issued as aforesaid to said company, as provided for in the first section of this act, and all old surveys excepted by said colony contracts, located and surveyed before the date of said contracts, unless by the authority of the decree of some court of competent jurisdiction, and the rights or remedies in law or equity of those who may have made locations or surveys of land within the limits of said colony contracts, shall not be impaired or changed by the passage of this act; provided, however, that one-half of the lands acquired by said company in virtue of the provisions of this act, shall be alienated by them within ten years after the passage of this act.

Sec. 4. That it shall be the duty of each and every colonist, before the fourth day of August, 1852, to file with the agent of said company a full and particular description, under their hand and seal, of the land they claim and are entitled to in said colony as colonists, by the number of the section or parts of a



section, township and range, base and meridian, if located and claimed as surveyed by said company in their surveys aforesaid; but if otherwise, by the map and field-notes of their said survey correctly made out, which description of land and maps and field-notes of surveys made by said colonists with the names of the persons claiming the same, said agent shall return to the Commissioner of the General Land Office. And all lands lying within the limits of said colony a description or map and field-notes of which shall not be returned by the agent as aforesaid to the Commissioner of the General Land Office, shall then be deemed and considered vacant so far as to be open to the location and surveys of said company, according to the provisions of the second and eighth sections of this act.—Provided, that a failure of said agent to return any or all of said descriptions, and maps, and field notes as aforesaid, which shall be actually filed with him in his office as aforesaid, shall not render vacant any land the description and field-notes and maps of which he shall fail to return as aforesaid. And, provided, also, that all locations and surveys made in said colony prior to November, 1841, shall be exempted from location.

Sec. 5. That it shall be the duty of the agent of said company to file in the General Land Office of this State, and also in the several offices of each and every district or county surveyor, whose district or county is in whole or in part embraced within the limits of said colony, a map containing the surveys heretofore made by said company in said colony, certified to by said agent, and it shall be the duty of each of said district or county surveyors to mark and lay down upon the map so furnished to him by said agent correctly, all the surveys which have at this time been made in said colony, or which may be made before the fourth day of July, 1852, by said District or County Surveyor, or by any and all of his deputies, for any colonist or colonists of Peters' colony, as the land to which they are entitled as colonists in said colony as aforesaid; which maps, with his surveys, and all those made by his deputies, as aforesaid, correctly laid down thereon, and certified to by him as being true and correct, and containing all the surveys made by him and those made by his deputies as aforesaid, under his hand and seal, he shall return to said agent, on or before the 24th day of July, 1852, at the office of said agent in said colony. And for any failure, refusal or neglect on the part of either of said District or County Surveyors, in the performance of this duty, hereby enjoined on them, such District or County Surveyor, so failing, refusing or neglecting, shall be liable upon

his official bond to any colonist, and to said company in the amount of any damage or injury said colonist or said company may sustain by reason of such failure, neglect or refusal, to be recovered before any competent tribunal.

Sec. 6. That it shall be the duty of said agent, on or before the fourth day of September, 1852, to return all of said maps and said descriptions of the lands claimed as aforesaid, by said colonists, which may be returned or filed in his office as aforesaid, to the Commissioner of the General Land Office, who shall inspect the same, and if found by him to be correct, and in accordance with this act, he shall file the same in his office, and deliver a certified copy thereof to said agent, and when filed, he shall, in accordance with said maps, and the description of the land returned and claimed by the colonists as aforesaid, issue patents to the colonists or their assigns.

Sec. 7. That the agent aforesaid, in the performance of said duties, shall keep his office in said colony, as near the centre thereof as may be convenient to him, and shall keep in his office the maps or plats of the surveys of the lands heretofore surveyed by said company in said colony, and the books and registers and papers in his possession, at all times open to the inspection of the colonists. And for any services which he may perform as aforesaid, or for any writing or receipt which he may give to any colonist, or for making the returns as aforesaid to the Commissioner of the General Land Office, he shall make no charge, either to the colonists or to the State. And for the faithful and impartial performance of his duties therein, he shall take an oath before some Notary Public of this State, and enter into bond with the State of Texas in the sum of twenty thousand dollars, with at least two good securities; said bond to be approved by the Secretary of State and deposited in his office.

Sec. 8. That it shall be lawful for the agent of said company, from time to time, as he shall deem necessary, during said two years and six months after the passage of this act, to make, or cause to be made by any person or persons whom he may authorize and designate, all the surveys which, in the location of their said certificates, it shall be necessary for said company to make in said colony. And the agent aforesaid shall semi-annually make returns to the Commissioner of the General Land Office of the field-notes of all surveys made, or caused to be made by him as aforesaid, certified to by said agent and sworn to by the person making said survey or surveys. And if said survey or surveys shall be found not to interfere with the

lands claimed by the colonists as aforesaid, the description and field-notes of which shall have been returned to said Commissioner, by said agent, as contemplated in the fourth section of this act, or with any legal grants and surveys previously made, the Commissioner of the General Land Office shall issue to said company, or their assigns, patents therefor, whenever said company or their assigns shall surrender to him certificates corresponding in the number of acres with such survey or surveys, and paying to him the usual fees for issuing patents.

Sec. 9. That said agent shall also make to said Commissioner semi-annual returns of all sections or parts of sections which he may choose out of the lands heretofore surveyed by said company in said colony, by designating to him said sections or parts of sections, by number, township, range, base and meridian, and patents shall be issued therefor to said company or their assigns, containing said designation without further description, whenever said company shall surrender to said Commissioner of the General Land Office, certificates corresponding in number of acres with such sections or parts of sections so chosen, and paying to him the usual fees for issuing patents.

Sec. 10. That every colonist who settled within the limits of said colony prior to the first day of July, 1848, and resided therein three years, but who was not residing therein on the 21st day of January, 1850, and who has not received a certificate from the colony Commissioner, Thomas Wm. Ward, or if residing therein at that time, and now a resident of said colony, and who has not received a certificate as aforesaid, shall be entitled—heads of families, to six hundred and forty acres each, and single men, to three hundred and twenty acres each. And it shall be lawful for any colonist as aforesaid to prove such settlement and residence before any County Court within said colony, by his own oath, and the oath of two respectable witnesses, and declaring under oath that he has not received a certificate from Thos. Wm. Ward, as a colonist, nor as provided for in this section; and that he has never received any land as a headright from the Republic or State of Texas, the clerk of said court shall give to said colonist a certificate thereof under his hand and official seal, setting forth the amount of land to which such colonist is entitled, and upon said certificate, said colonist may locate and survey the land to which he is thereby entitled as aforesaid, as other colony certificates are located, agreeable to the provisions of this act, for which oaths, certificates and seal, said Clerk shall receive two dollars and

fifty cents; and whenever said colonist or his assigns shall file said certificate and the field-notes of his said survey or a description thereof, by section or parts of section, township and range, in the General Land Office of this State, and his survey is found not to conflict with the locations and surveys of other colonists, or with any of those locations or surveys contemplated by this act, to be made or caused to be made by said agent or said company in said colony, the Commissioner of the General Land Office shall issue patents therefor to said colonist or his assigns. Also, the certificates issued to the colonists by the Commissioner, Thos. Wm. Ward, shall be transferable, and all transfers of such certificates heretofore made are hereby legalized, and may be located upon any of the vacant or unappropriated public lands within the limits of said colony; provided, that any certificate or patent issued by virtue of this section, to any person who may have previously obtained land, or a certificate for land from Mexico, Coahuila and Texas, or the Republic or State of Texas, shall be null and void.

Sec. 11. That each and every colonist who has not yet located or surveyed his land, to which as a colonist he or she is entitled in said colony, either by Ward's certificate or otherwise, shall have preference over said company until the fourth day of July, 1852, wherein to make their locations or survey; provided, however, that any location or survey which shall hereafter be made by any such colonist upon any of the lands in said colony, which have been surveyed by such company, such location or survey shall be governed by, and confined to the lines and corners of said company's surveys as delineated upon their maps; but should their location and survey be made upon part of the unsurveyed lands in said colony, such survey or location may be made as required by law for other surveys.

Sec. 12. That at the same time said agent shall file the relinquishment as aforesaid, he shall, also, file with the Commissioner of the General Land Office, the certificates of the Clerk of the District Court of Travis county, certifying that the suit of the Trustees of said company vs. the Commissioner of the General Land Office has been dismissed, which dismissal shall be without prejudice to the plaintiffs upon their bond; and upon the filing of said relinquishment and certification, it is hereby made the duty of the Attorney General of this State to dismiss the suit of "the Governor for the use of the State," now pending. "against Carrol, Mercer and others," in the Navarro District Court of this State.

Sec. 13. That all those who have heretofore located upon

any of the lands within said colony, by virtue of any headright certificate, land scrip, or bounty warrant, other than those heretofore or hereafter to be issued to said colonists or contractors as hereinbefore mentioned or provided, shall not be placed in a better or worse condition than they are at present, anything in this act contained to the contrary notwithstanding.—And nothing in this act shall be so construed as to oblige any colonist who has, or may locate his claim upon the lands heretofore surveyed by said company in said colony, to re-survey his land; provided, his location is confined to the lines and corners of the surveys of said company; nor to allow any person to locate upon the section or part of a section upon which any colonist may at this time be residing, or was residing on the first day of July, 1848; provided, such resident shall locate his claim thereon before the fourth day of July, 1852; and that this act be in force from and after its passage.

Approved, February 10, 1852.

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### CHAPTER LXXIII.

An Act making appropriations to pay the several Assessors and Collectors of Taxes, for taking the Census of their respective Counties for the year 1851.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of seven thousand dollars, or as much thereof as may be necessary, be, and the same is hereby appropriated to pay the several Assessors and Collectors of taxes of this State, for taking the census of their respective counties in the year eighteen hundred and fifty-one; provided, that no Assessor and Collector shall be entitled to pay under this act, who shall have failed to file, or cause to be filed a copy of the census returns of his county in the office of the Secretary of State on or before the first day of December, 1851; except the Assessors and Collectors of the counties of De Witt, Washington and Titus; and that this act be in force and take effect from and after its passage.

Approved, February 10, 1852.

## CHAPTER LXXIV.

## An Act concerning Irrigation Property.

Section 1. Be it enacted by the Legislature of the State of Texas, That the County Courts be, and they are hereby authorized to order, regulate and control the time, mode and manner of erecting, repairing, cleaning, guarding and protecting the dams, ditches, roads and bridges belonging to any irrigation farms and property, and the fences or other like protection in and around such farms; provided, that such farms, dams, ditches and fences be owned conjointly by two or more different persons; and further provided, that the same be situated outside of a corporation having jurisdiction thereof.

Sec. 2. That said County Courts shall have power to ordain and establish all the needful police government and civil control over such irrigation farms and property, and said courts may assess and collect fines for breaches of any regulations established by them, or by the joint owners of such farms and property, or recognized by said court as consistent with ancient usage and the law of the State; said courts may order meetings of said joint owners for the election of commissioners and other officers, and for the consideration of any of their other interests, or the said court may proceed and elect said officers, and may regulate the right of way, the stoppage and passage of the water, and the right distribution of the shares of said water; they may forbid the running of stock at large on the common farm; they may fine for taking water out of turn, and for carelessness and wantonness in overflowing roads and neighboring lands, and generally they may do, or cause to be done, what they may consider just and needful or beneficial to the joint owners.

Sec. 3. That if any owner of a suerte or subdivision lot in said farm, shall fail or refuse to do or pay his or her proportion of labor and expense in and on such dam, ditches, fences, bridges and other needful appurtenances to such irrigation farms, the said County Court may, and they are hereby empowered to fine such person, or to lease said suerte; provided, that such leasing shall be at public outcry, after ten or more days of due public notice, and to the persons bidding the shortest term, not to exceed four years, who shall give good security to discharge faithfully all such charge and work.

Sec. 4. That upon the application of the owners of any suitable lands and water, and the assurance and the proper securi-

ty given to the county, if required by said court, that no injury will result to the public health, the County Courts are hereby authorized, by decree, to license and permit any such owners, to proceed and dam the water, and to ditch, fence, and irrigate their lands; provided, that all such joint owners of new or already established irrigation farms, shall be liable for damages done to the public, or to any person by reason of the overflow of such irrigation water; suit to be brought against the person occasioning the injury, or in such other way as may be sanctioned by said court.

Sec. 5. That if in the establishment of any new project of irrigation, or the extension thereof, the County Court deem it of sufficient importance to order a dam or ditch to be made on the lands of any person refusing to consent thereto, the said court, after giving such person actual notice in writing, and full hearing and consideration of his objections, may decree the making of the same, and shall depute two or more discreet and disinterested freeholders of the vicinage to arbitrate and fix the amount of damage permanently sustained by such person, which shall, by that or another such commission, be levied upon and paid forthwith by the applicants for such irrigation project, in the ratio of the interest and several shares of the said applicants and joint owners; and the said County Courts, may, after like personal notice to parties interested, order the multiplication or extension of any ditches for irrigation, and of irrigation farms at and below, or at the sides of other such property; when it shall be the duty of such court to proceed and assess all just fines and equitable damages, and to fix and direct the rate and amount and kind of work, labor and tax to be paid by any of such applicants and others, according to their interest.

Sec. 6. That where the health of the public may be injured by irrigation, or the daming up of water for any purpose, it shall be the duty of the County Courts, after due and mature hearing and consideration, to decree the discontinuance, and they shall proceed and break up and discontinue all such dams, ditches and irrigation, whether the same have been heretofore ever so long in existence, or may be hereafter started.

Sec. 7. That in counties where the County Courts may decree and adjudge that fences around irrigation farms may be dispensed with, they may make all fair, equal and proper regulations for the keeping up or herding of hogs, cattle and other stock, and for the security and protection of the crops and

farms; provided, that if ten or more voters shall make written protest against such decree, then the said court shall proceed by notice and a public election, and ascertain if two-thirds of the voters be in favor of dispensing with the use of fences, otherwise it shall not be so decreed.

Approved, February 10, 1852.

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## CHAPTER LXXV.

An Act granting relief to certain pre-emption claimants, by extending the time within which said claimants are required, by the second section of "an act," passed January twenty-second, eighteen hundred and forty-five "granting to settlers on vacant Public Domain pre-emption privileges," to have the land including their improvements covered with a valid certificate.

Section 1. Be it enacted by the Legislature of the State of Texas, That all individuals who have settled upon any of the public domain of this State, and have had the same surveyed prior to the first day of January, eighteen hundred and fifty-one, in accordance with the provisions of "an act," passed on the twenty-second day of January, eighteen hundred and forty-five "granting to settlers on the public domain, pre-emption privileges," are hereby authorized and empowered, to have, hold and enjoy the same until the first day of January, eighteen hundred and fifty-four, without having their land covered by a certificate prior to that time.

Sec. 2. That should any pre-emption claimant or claimants fail to have the land he, she or they may be entitled to, covered by a valid land certificate, land scrip, or bounty warrant, or other genuine evidence of a claim to land, by the said first day of January, eighteen hundred and fifty-four, said claimant or claimants shall forfeit and lose all the rights and privileges granted by this act. and by the act passed January the twenty-second, eighteen hundred and forty-five, "granting settlers on public domain pre-emption privileges."

Sec. 3. That this act shall be in force from and after its passage.

Approved, February 10, 1852.



CHAPTER LXXVI.

**An Act to protect Camp-meetings and other places of public worship from molestation and disturbance.**

Section 1. Be it enacted by the Legislature of the State of Texas, That hereafter it shall not be lawful for any person or persons to vend any spirituous liquors, cakes, fruits or other articles of whatsoever character for the purpose of traffic or speculation, within one mile of any camp-ground, or place where any camp or protracted meeting is holding its session; and any person so offending shall be liable to indictment, and on conviction before the District Court, shall be fined in any sum not less than twenty, nor more than one hundred dollars.

Sec. 2. Any slave or free person of color offending against the provisions of this act, may, on complaint of any person who has knowledge of the fact, be arrested and brought before any Justice of the Peace for the county where such offence is committed, and on conviction, shall receive twenty-five lashes on his or her back, to be inflicted by the Sheriff of the county, or any legally appointed deputy of such Sheriff, or any Constable of said county.

Sec. 3. Nothing in this act contained shall be so construed as to prevent any person from selling, as now provided by law, any of the articles mentioned in the first section of this law, at the place of their residence or place of regular business.

Approved, February 10, 1852.

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CHAPTER LXXVII.

**An Act to create the office of Chief Clerk of the Comptroller's Office.**

Section 1. Be it enacted by the Legislature of the State of Texas, That there shall be created the office of Chief Clerk of the Comptroller's office, who, before entering upon the duties of his office, shall be required to take the oath prescribed by the Constitution, and give bond in the sum of ten thousand dollars, conditioned for the faithful performance of his duties; whose

duty it shall be to keep the books of said office, and discharge the duties of the Comptroller, whenever said office may become vacant by death, resignation or otherwise, or when the Comptroller may be unavoidably absent, or incapable from sickness to discharge said duties.

Sec. 2. That he shall receive the sum of one thousand dollars per annum, in compensation for his services.

Sec. 3. That this act take effect from and after its passage.

Approved, February 10, 1852.

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#### CHAPTER LXXVIII.

An Act to validate the signature of James B. Shaw, Comptroller, by George J. Durham.

Section 1. Be it enacted by the Legislature of the State of Texas, That the signature of James B. Shaw, Comptroller, as signed by George J. Durham, Book-Keeper of said office, to certificates of redemption for lands sold for taxes, and also to tax receipts, during the absence of said James B. Shaw, in the winter of 1851, shall be, and is hereby declared valid.

Approved, February 10, 1852.

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#### CHAPTER LXXIX.

An Act to provide for the election of all officers created by the Charters and Boards of Aldermen of the cities of Galveston and Houston.

Section 1. Be it enacted by the Legislature of the State of Texas, That hereafter all officers created by the charters of the cities of Galveston and Houston, and all officers created by the boards of Aldermen of said cities, by authority of their charters, shall be elected by the voters within the limits of said cities, qualified under the charters of said cities.

Sec. 2. That the authorities of said cities shall regulate the manner and mode of holding and conducting such elections, not inconsistent with the laws and constitution of the State.

Sec. 3. That this act take effect from and after its passage.

Approved, February 11, 1852.

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CHAPTER LXXX.

Joint Resolution for the relief of the Company of Rangers commanded by Captain William Becknell, in the year 1836.

Whereas, the Adjutant General has refused to issue bounty land warrants to the members of the company of Rangers commanded by Captain William Becknell, in the year 1836, because the discharges received by said company are only signed by the officers of said company, and not countersigned by some field-officer or commandant of a post, as the law requires; and whereas, it fully appears from the muster-roll now on file, that said company did serve for three months, and were honorably discharged; and under the law which they served, were entitled to bounty land to the amount of three hundred and twenty acres each; therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That the Adjutant General be, and he is hereby authorized and required to issue bounty land warrants to the members of the company of Rangers commanded by Captain William Becknell, in the year 1836, upon their filing in said office an honorable discharge, regularly signed by the officers of said company; provided, that the members of said company would have been entitled to the bounty land they ask for, by law, if their discharges had been countersigned by a field-officer.

Sec. 2. That this joint resolution take effect from and after its passage.

Approved, February 11, 1852.

## CHAPTER LXXXI.

An Act to provided for the publication of an Abstract of Land Titles.

Section 1. Be it enacted by the Legislature of the State of Texas, The Comptroller of Public Accounts be, and he is hereby authorized and directed to contract for four hundred of the abstracts of land titles, to be published by some printer or publisher in this State, for the use of the State; provided, the cost of the same shall not exceed the sum of six dollars per volume; and the sum of two thousand four hundred dollars, or so much thereof as may be necessary, is hereby appropriated for the payment of the same; and provided, also, that the said abstract as published shall contain the date of the issuance of each title.

Sec. 2. The Comptroller is further authorized and directed to furnish said printer or publisher with a transcript of the abstract of land titles now in the Comptroller's office.

Sec. 3. That nothing in this act shall be so construed as to give validity to any claims published in said abstract that are void, invalid, or incomplete.

Sec. 4. That this act shall be in force from and after its passage.  
Approved, February 11, 1852.

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CHAPTER LXXXII.

An Act to define the time of holding the District Courts, in the several Districts therein named.

Section 1. Be it enacted by the Legislature of the State of Texas, That the first section of an act to define the time of holding the District Courts for the Fifth Judicial District, approved February 11th, 1850, be so amended as to read as follows, to wit:

In San Augustine county on the fifth Mondays after the first Mondays in March and September, and may continue in session four weeks.

In Jasper county on the ninth Mondays after the first Mondays in March and September, and may continue in session two weeks.

Sec. 2. That from and after the first day of February next, the following counties shall compose the Fourth Judicial District, to wit: Refugio, Nueces, San Patricio, Medina, Uvalde, Gillespie and Bexar; that the Courts in the Fourth Judicial District from and after the first day of February next shall be held as follows, to wit:

In the county of Refugio on the first Mondays in March and September, and may continue in session one week;

In the county of San Patricio on the second Mondays in March and September, and may continue in session one week;

In the county of Nueces on the third Mondays in March and September, and may continue in session two weeks;

In the county of Medina on the sixth Mondays after the first Mondays in March and September, and may continue in session one week;

In the county of Uvalde on the seventh Mondays after the first Mondays in March and September, and may continue in session one week;

In the county of Gillespie on the eighth Mondays after the first Mondays in March and September, and may continue in session one week;

In the county of Bexar on the ninth Mondays after the first Mondays in March and September, and may continue in session until the business shall be disposed of.

Sec. 3. That the District Courts in the Sixth Judicial District of this State shall be held in the several counties composing the same at the times herein specified, to wit:

In the county of Cass on the third Mondays in March and September, and may continue in session two weeks;

In the county of Upshur on the second Mondays after the third Mondays in March and September, and may continue in session two weeks;

In the county of Wood on the fourth Mondays after the third Mondays in March and September, and may continue in session one week;

In the county of Smith on the fifth Mondays after the third Mondays in March and September, and may continue in session two weeks;

In the county of Cherokee on the seventh Mondays after the third Mondays in March and September, and may continue in session two weeks;

In the county of Rusk on the ninth Mondays after the third Mondays in March and September, and may continue in session three weeks;

In the county of Panola on the twelfth Mondays after the third Mondays in March and September, and may continue in session two weeks;

In the county of Harrison on the fourteenth Mondays after the third Mondays in March and September, and may continue in session until the business is disposed of.

Sec. 4. That the District Courts of the Seventh Judicial District shall be held in the several counties composing the same at the times herein specified, to wit:

In the county of Montgomery on the third Mondays in March and September, and may continue in session two weeks;

In the county of Grimes on the second Mondays after the third Mondays in March and September, and may continue in session one week;

In the county of Walker on the third Mondays after the third Mondays in March and September, and may continue in session two weeks;

In the county of Trinity on the fifth Mondays after the third Mondays in March and September, and may continue in session one week;

In the county of Polk on the sixth Mondays after the third Mondays in March and September, and may continue in session one week;

In the county of Tyler on the seventh Mondays after the third Mondays in March and September, and may continue in session one week;

In the county of Jefferson on the eighth Mondays after the third Mondays in March and September, and may continue in session one week;

In the county of Orange on the ninth Mondays after the third Mondays in March and September, and may continue in session one week;

In the county of Liberty on the tenth Mondays after the third Mondays in March and September, and may continue in session two week;

In the county of Harris on the twelfth Mondays after the third Mondays in March and September, and may continue in session until the business is disposed of.

Sec. 5. That the District Courts in the Eighth Judicial District of this State shall be held in the several counties composing the same at the times herein specified, to wit:

In the county of Bowie on the last Mondays in February and August, and may continue in session two weeks;

In the county of Titus on the second Mondays in March and September, and may continue in session two weeks;

In the county of Hopkins on the fourth Mondays in March and September, and may continue in session one week;

In the county of Hunt on the first Mondays after the fourth Mondays in March and September, and may continue in session one week; ,

In the county of Collin on the second Mondays after the fourth Mondays in March and September, and may continue in session one week;

In the county of Denton on the third Mondays after the fourth Mondays in March and September, and may continue in session one week;

In the county of Cooke on the fourth Mondays after the fourth Mondays in March and September, and may continue in session one week;

In the county of Grayson on the fifth Mondays after the fourth Mondays in March and September, and may continue in session one week;

In the county of Fannin on the sixth Mondays after the fourth Mondays in March and September, and may continue in session one week;

In the county of Lamar on the seventh Mondays after the fourth Mondays in March and September, and may continue in session two weeks;

In the county of Red River on the ninth Mondays after the fourth Mondays in March and September, and may continue in session two weeks;

Sec. 6. That all laws conflicting with the provisions of this act are hereby repealed, and this act shall be in force from and after the first day of July, 1852.

Approved, February 11, 1852.

## CHAPTER LXXXIII.

An Act to declare the Town Book of the Town of Seguin in Guadalupe County, a Book of Record.

Section 1. Be it enacted by the Legislature of the State of Texas, That a book known as the Town Book of the town of Seguin in the county of Guadalupe, which contains the original plan and entries of the sale of the lots or shares of said town be, and the same is hereby declared a book of record of said county.

Sec. 2. That the County Clerk of Guadalupe county be, and he is hereby required to take charge of said Town Book and retain the same as other books of record belonging to his office.

Sec. 3. It shall be the duty of the said County Clerk to procure a well bound record book and therein transcribe the contents of said Town Book; provided, the citizens of Seguin shall pay him a sum sufficient to procure said blank book and at rates of fifteen cents for each hundred words transcribed as contemplated by this act.

Sec. 4. This act shall take effect from its passage.

Approved, February 11, 1852.

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CHAPTER LXXXIV.

An Act to define more correctly the Boundaries of San Patricio County.

Section 1. Be it enacted by the Legislature of the State of Texas, That the county of San Patricio shall hereafter consist and be composed of the territory lying between the river Nueces and river and bay of Aransas, commencing where the Bexar county line crosses the Nueces river; thence down the east bank of the Nueces river to Corpus Christi bay, following the meanders of the bay to the mouth of the bayou that connects said bay with Aransas bay; thence in a direct line to the mouth of the Aransas river; thence following the meanders of the west bank up the main branch of the Aransas river to the north-east corner of a league of land granted in McMullen's and McGloin's colony to Simon Drayer; thence with the upper line of



said league westward, and continuing the same course after passing the same to the intersection of a line running with the east lines of surveys of Foster, Abbott, Ragan, May, Pilkeston and Coley, south twenty degrees east, and north twenty degrees west to the Bexar district line; thence with the line of Bexar county to the place of beginning.

Sec. 2. That this act take effect from and after its passage.

Approved, February 12, 1852.

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## CHAPTER LXXXV.

An Act to attach the County of Presidio to the County of El Paso, for Judicial purposes.

Whereas, the county of Presidio has not yet been organized, and Whereas, some doubt exists as to the said county having been detached from the Judicial jurisdiction of the county of Bexar, the original county of Santa Fe never having been organized; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the judicial jurisdiction of the county of El Paso, as well civil as criminal, shall be, and the same hereby is extended to and throughout the county of Presidio until the same shall have been organized according to law, and that all causes of action arising within the said county of Presidio over which the District Courts would have jurisdiction, shall be tried in the county of El Paso in the same manner and the same proceedings had thereon as though the said causes of action had arisen in the county of El Paso.

Sec. 2. That when the said county of Presidio shall have been organized, it shall be the duty of the District Clerk of the county of El Paso, to make a correct and full transcript of all records, papers and documents whatsoever appertaining to any and all suits pending in the District Courts of the county of El Paso, which shall have arisen in the said county of Presidio, together with a true statement of all proceedings thereon had in the said Court of El Paso county, properly certified to and sealed with his official seal, and approved by the presiding Judge of the Eleventh Judicial District: and the District Clerk

of El Paso county shall also deliver or transmit to the District Clerk of Presidio county all original papers in any suit pending as aforesaid, and the said transcript of record, papers and documents and the said statement of proceedings in the District Court of the county of El Paso, certified, sealed and approved as aforesaid, shall in all places be received in evidence of the facts therein set forth, as fully as the original might or could be; and all suits so transferred and certified to the District Clerk aforesaid shall be proceeded with in the same manner in the District Court of Presidio county as if the same had therein been originally instituted.

Sec. 3. That until the county of Presidio shall have been organized according to law, the county of El Paso, for the settlement of the estates of deceased persons, shall have jurisdiction of all cases arising in the county of Presidio, and the same proceedings shall be had thereon as if the                      of administration or otherwise had occurred in the county of El Paso; and that so soon as the county of Presidio shall have been duly organized, the County Clerk of El Paso shall make a correct and full transcript of all records, papers and documents in his office relating to said cases, and deliver and transmit the same to the County Clerk of Presidio county, together with all original papers thereto belonging, and a full statement of all proceedings had in said cases in the said County Court of El Paso county; and the transcript of records, papers and documents and the statement of proceedings hereinbefore provided for, shall be certified to by the Clerk of the County Court of El Paso county, and sealed with his seal, and approved by the Chief Justice of the said County, or in the absence of the Chief Justice, or where two County Commissioners are authorized by law to act instead of the Chief Justice, then the said transcript and statement of proceedings shall be approved by any two of the County Commissioners of El Paso county; and the said transcript of record, papers and documents and the said statement of proceedings, certified, sealed and approved as aforesaid, shall in all places be received in evidence of the facts therein set forth as fully as the originals might or could have been; and the County Court of El Paso county, for the settlement of the estates of deceased persons, shall proceed to dispose of said cases in the same manner as if the original proceedings had been had in said Court.

Sec. 4. That this act take effect and be in force from and after its passage.

Approved, February 12, 1852.

CHAPTER LXXXVI.

An Act relinquishing to the Counties, the State Tax for the years 1852 and 1853.

Whereas, many of the counties in the State are in debt and in want of Courthouses, Jails, Jury Fund, et cetera; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That nine-tenths of the State tax hereafter to be collected under existing laws, on the assessment to be made for the years eighteen hundred and fifty-two and eighteen hundred and fifty three, is hereby relinquished to the respective counties where said tax is assessed, to be disbursed for the benefit of said counties, at the discretion of the respective County Courts of said counties.

Sec. 2. Said tax to be assessed and collected by existing laws regulating the same, and returns of the assessment rolls, and one-tenth of said tax passed to the credit of the free common school fund, shall be made by the Assessors and Collectors to the Comptroller at the time provided by law, and it shall be the duty of the said Assessors to use the forms and pursue the instructions of the Comptroller as heretofore.

Sec. 3. The Assessor and Collector shall monthly pay over to the Treasurer of the county, all moneys collected under this act, and report to the County Court at each regular meeting, the time and amounts of said payment, and submit to said Court whenever required, his books and accounts, and also make an annual statement at the same time he is now required to make his final settlement with the Comptroller under existing laws; and it shall be his duty to use the forms and pursue the instructions of the Comptroller as heretofore; provided, that no Assessor or Collector or County Treasurer shall be allowed to receive in payment of said taxes, anything but gold and silver, and, provided, that all Assessors and Collectors and County Treasurers shall be compelled to account to the County Courts of their respective counties for all sums coming to the counties in gold and silver, and nothing else.

Sec. 4. The liability of the Assessor and Collector shall be as heretofore, and in the event of any Assessor and Collector failing or refusing to comply with the laws regulating the assessment and collection of taxes, said officer and his securities shall be prosecuted by the District Attorney of the District where such officer resides, on the bond or bonds he may have

executed to the State of Texas for the faithful discharge of such officer's duty; and a certified copy of such bond by the County Clerk of the county where such bond is of record shall be entitled to the same degree of credit that the original bond would be if produced in Court.

Sec. 5. It shall be the duty of the District Attorneys of the different districts to prosecute all delinquent tax collectors when notified by the County Court that such officer, if residing within their respective districts, has failed to assess and collect the taxes in such county in the manner provided for by law; and a statement of such officer's account, certified by the Court of the county, shall be *prima facie* evidence of such officer's delinquency; and the District Attorney shall prosecute the cause in the manner now provided for by law, and the proceeds of such prosecution shall be paid into the County Treasury.

Sec. 6. The Treasurer of the county shall report to the County Court of his county at each regular meeting of said Court the amount of money in the Treasury, when and from whom received, and account for all moneys paid out, none of which shall be disbursed except by order of the County Court on the warrant of the Chief Justice, attested by the County Clerk. He shall enter into bond to the county, in a sum which the County Court may consider double the probable amount of the relinquished State tax for the term of two years in addition to the bond now required by law, and his liability shall be as heretofore.

Sec. 7. The pay allowed the Assessor and Collector for going to and returning from the seat of Government settling his account, shall be as heretofore provided by law, the same to be paid out of the County Treasury on the certificate of the Comptroller, that said Assessor and Collector has settled his account.

Sec. 8. The Comptroller shall, as heretofore, receive the taxes due by non-residents, and pay the same to the Assessors and Collectors of the counties where the property so paid upon is situated, for the benefit of such counties. It shall be the duty of the Comptroller to ascertain, upon what real estate the taxes have not been paid and to take the needful steps to enforce the payment of the amount due on such property as provided for in the taxation act, approved February 11th, eighteen hundred and fifty.

Sec. 9. The County Treasurer shall be entitled to receive two

and a half per cent for receiving, and the same rate for paying out the moneys received under this act, and no more; and this act shall take effect and be in force from and after its passage.  
Approved, February 13, 1852.

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CHAPTER LXXXVII.

An Act fixing the Term of Office of the Commissioner of the General Land Office.

Whereas, there exists some doubt as to the precise time at which the term of office of the present Commissioner of the General Land Office expires; and,

Whereas, it is important that the official acts of that officer should be placed above cavil or doubt; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the official term of Stephen Crosby, Commissioner elect of the General Land Office, shall commence on the first day of March eighteen hundred and fifty-two, and continue two years; and all his acts as Commissioner for and during that time, shall be as valid as though no such doubt had existed.

Sec. 2. This act shall take effect from its passage.

Approved, February 13, 1852.

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CHAPTER LXXXVIII.

An Act to define the time of holding the District Courts in the Third Judicial District of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That there shall be two terms of the District Court held in each year in each of the counties of the Third Judicial District as follows, to wit:

In the county of Washington on the first Mondays in March and September. and may continue in session three weeks;

In the county of Burleson on the fourth Mondays in March and September, and may continue in session one week;

In the county of Milam on the first Mondays after the fourth Mondays in March and September, and may continue in session one week;

In the county of Bell on the second Mondays after the fourth Mondays in March and September, and may continue in session one week;

In the county of McLennan on the third Mondays after the fourth Mondays in March and September, and may continue in session one week.

In the county of Falls on the fourth Mondays after the fourth Mondays in March and September, and may continue in session one week;

In the county of Limestone on the fifth Mondays after the fourth Mondays in March and September, and may continue in session one week;

In the county of Freestone on the sixth Mondays after the fourth Mondays in March and September, and may continue in session one week;

In the county of Leon on the seventh Mondays after the fourth Mondays in March and September, and may continue in session two weeks;

In the county of Robertson on the ninth Mondays after the fourth Mondays in March and September, and may continue in session one week;

In the county of Brazos on the tenth Mondays after the fourth Mondays in March and September, and may continue in session one week.

Sec. 2. All writs and process that have been or may hereafter be issued from any of the District Courts of the Third Judicial District, shall be considered as returnable, and shall be returned to the terms as established by this act, and shall have the same force and effect as if the same had originally been so returnable, and that all laws conflicting with the provisions of this act be and the same are hereby repealed: and that this act take effect from and after its passage.

Approved, February 13, 1852.

CHAPTER LXXXIX.

An Act making an Appropriation for the payment of a portion of the Public Debt not provided for.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of one hundred and twenty-three thousand two hundred and twenty dollars and thirty-three cents of the bonds of indemnity received from the United States Government, or the proceeds thereof be, and the same is hereby appropriated for the payment of that portion of the Second Class claims filed previous to the first of September, A. D. 1851, and upon which certificates of the Public Debt have been issued since the report of the Auditor and Comptroller of the 12th of November, A. D. 1851, which shall be paid in the manner prescribed for the payment of claims of a like nature by an act passed the 31st day of January, 1852, providing for the liquidation and payment of the debt of the late Republic of Texas.

Sec. 2. And that this act take effect and be in force from and after its passage.

Approved, February 13, 1852.

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CHAPTER XC.

An Act to authorize the County of Montgomery to levy a Road Tax.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Chief Justice of the County Court of Montgomery county shall submit to the people of said county, at the time of the election of the Chief Justice and County Commissioners of said county, in the year 1852, twenty days previous sufficient notice having been duly given, the proposition of the levy of a road tax upon the property and the inhabitants of the county, specifying the amount and rate of taxation which may be esteemed sufficient by the County Court, to be applied under the direction of said County Court, to the keeping in good repair and condition the public roads of the county; and if a majority of two-thirds of the persons voting at said election shall vote in favor of such road taxation, the same shall be as-

sessed, collected and applied in the manner hereinafter provided.

Sec. 2. That it shall be the duty of the Assessor and Collector of said county of Montgomery, upon notice from the Chief Justice of said county, to add an additional column to and assess upon the tax rolls then made for said county for the year 1852, the amount of road taxes due and to be paid by each individual of his county, and upon all property returned to him for taxation, and upon all property which may be assessed by the Comptroller and returned to him for the collection of taxes due thereon under the 19th section, (Hartley 3185,) of the act to provide for the assessment and collection of taxes, of force February 11, 1850, and to collect and enforce the payment of the taxes so by him assessed, in the same manner and at the same time as provided by law for the collection of county taxes as the road tax.

Sec. 3. That the Assessor and Collector of taxes of said county shall for every succeeding year after the year 1852, assess and collect and enforce the collection of the road taxes of said county to be paid by each individual of his county, and upon all property returned to him by the Comptroller, for the collection of taxes due thereon, in the same manner and at the same time as other taxes of his county are collected.

Sec. 4. That it shall be the duty of the Assessor and Collector of taxes to pay over the taxes by him collected under this act to the County Treasurer of said county, as the road tax fund, and upon his failing to pay to said Treasurer the entire amount of the same by him collected, he and his securities shall be liable to be sued upon his bond as such Assessor and Collector for the damages which may be sustained by the county.

Sec. 5. That it shall be the duty of the County Treasurer to receive and keep said road taxes as the road tax fund, to be entered upon his books to the credit of said fund, not to be paid out save under the direction of the county, and for road uses.

Sec. 6. That it shall be the duty of the County Court of said county, at the first term thereof in the year 1853, to establish and class the public roads of the county in the manner provided for by law, and to lay the same off into road precincts or contract sections of convenient length, and thereafter to give sufficient notice, and severally let out at public outcry at the courthouse door of the county, on the first Tuesday, and succeeding day if need be, of the month, the keeping of said sections of roads for one or more years, as may be deemed best,



to the lowest bidder who will keep the same for the time of his contract in the order and condition now required by law, or which may be required by said County Court, and in said contracts to be duly specified.

Sec. 7. That if any of said road sections should not be let out at the time advertised, the County Court may proceed to advertise and let them severally out to the lowest bidder on the first Tuesday of any succeeding month, or at private contract, as may be deemed best.

Sec. 8. That the County Court shall have full power to contract for the keeping of the roads of said county in good condition and repair; to take bonds of sufficient amount, with at least two good and sufficient sureties in each case for the true and faithful performance by the parties contracting, of the terms and conditions of their contracts, and to enforce the collection of all damages which may be sustained by any one from said roads being out of order, as well as of all penalties which may be incurred under the provisions of this act, to be recovered of the contractor and his sureties, before any Justice of the Peace of the county having jurisdiction of the amount of damages or penalty claimed, or before the District Court of the county.

Sec. 9. That if any contractor shall fail or neglect to keep the road, bridges, causeways or embankments of his section of road in good order and condition, or suffer them to remain uncleared or out of order for ten days at any one time, unless hindered by high water or other sufficient cause, to be determined by the County Court, such contractor shall forfeit and pay for every such offence, the sum of twenty-five dollars, to be recovered as prescribed in the preceding section.

Sec. 10. That all penalties and damages recovered under the provisions of this act, save those for damages to individuals, shall be paid to the County Treasurer and form a part of the road fund.

Sec. 11. That the County Court may include bridges and causeways in road sections, or let out and contract separately for the keeping of bridges in repair, and for building and keeping the same in repair for any term of years.

Sec. 12. That if two-thirds of the persons voting in the county of Montgomery, at the election in this act provided for, shall vote in favor of the road tax system, then, and in that case, no person shall be compelled to work upon the roads of said county after the first day of August, 1853.

Sec. 13. Any other county of this State may avail itself of the benefits of this act in the manner herein prescribed for the county of Montgomery.

Sec. 14. This act shall take effect from its passage.

Approved, February 13, 1852.

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## CHAPTER XCI.

An Act to provide for the erection of a Capitol for the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of one hundred thousand dollars out of the bonds, or the proceeds thereof which have already accrued to the State of Texas upon the five millions of dollars, in bonds, issued to her on the       day of       by the Government of the United States, as a part of the indemnity for the cession of her north-western territory be, and the same is hereby appropriated and set apart for the erection of a State House or Capitol, at the seat of the State Government.

Sec. 2. That the sum of twenty-five thousand dollars be, and the same is hereby appropriated out of the fund mentioned in the first section of this act, which shall be expended in furnishing and finishing said Capitol when erected, in the manner following:

Immediately after the Governor of the State shall have been notified of the completion of the building, he shall, together with the Secretary of State and Comptroller of Public Accounts, cause to be made out a schedule of such articles as may be necessary to furnish the Senate chamber, hall of the House of Representatives, and such other offices and rooms as said Capitol may contain, with such furniture as may be necessary to fit them up in a respectable style; and such articles when so ascertained shall be procured by the said Governor, by ordering them from any one of the cities of the United States, or by employing the services of a resident merchant or other suitable person, as to him shall seem most expedient; and such articles when so furnished, shall be paid for out of the said twenty-five thousand dollars mentioned in the foregoing part of this section,

upon drafts drawn by the said Governor upon the Treasury of the State, as in other cases; provided, that no portion of said twenty-five thousand dollars shall be used for any other purpose than the object contemplated in this section. Provided, that the entire cost of such building shall not exceed the sum hereby appropriated, and that no building shall be undertaken, the estimate for the construction and furnishing of which shall exceed that sum.

Sec. 3. There shall be elected by joint ballot of the two houses of the Legislature, at its present session, a superintendent and two commissioners, who shall respectively perform the duties and receive the salaries hereinafter mentioned. The superintendent shall receive an annual salary of fifteen hundred dollars, and the said commissioners shall each receive the annual sum of five hundred dollars. They shall each, before entering upon the duties of their office, enter into bond, with two or more good and sufficient securities; the said superintendent in the sum of ten thousand dollars, and the said commissioners each in the sum of five thousand dollars, conditioned for the faithful performance of the duties required of them by this act, payable to the State of Texas, to be approved by the Governor and filed in the office of the Comptroller, and shall also take and subscribe the following oath, to be endorsed on said bonds, (to be administered by any one authorized to administer oaths), to wit: "I, A B, do solemnly swear, that I will not directly or indirectly be interested or concerned with any contractor or contractors for the erection of the State Capitol, or any portion thereof, or in the proceeds or profits growing out of any work or labor done, or material furnished in the erection of the same, or any portion thereof, during the term for which I am elected. So help me God." And any one of said officers offending against the true intent and meaning of this oath shall, upon indictment and conviction in the proper District Court, suffer all the pains and penalties of perjury; and in case of a violation of the condition of the bonds provided for, shall be liable to an action thereon in the District Court of Travis county, and to judgment for such damages as may be awarded against the obligors thereto, by reason of the failure of the principal.

Sec. 4. It shall be the duty of the said commissioners as soon as they shall have qualified, as provided for in the third section of this act, to advertise for suitable plans for said building, at a cost not to exceed five hundred dollars; and said amount shall be drawn for by said commissioners and paid out of the amount of one hundred thousand dollars, as other monies are required

by law in other cases, which sum may be drawn for by them upon the State Treasury, and paid out of the amounts specified in the first and second sections of this act, and shall immediately after procuring and adopting said plans, proceed to let out, to the lowest bidders, the said building, in at least several contracts, dividing the different articles and materials to be furnished and work to be done, as in their judgment may be best: Provided, however, that they shall not be required to let out the several contracts at the same time, but may, if they think it will facilitate the erection of the building or promote economy, let them out from time to time, as will best subserve these objects. It shall be their duty before letting any of said contracts, to give at least four weeks notice in three of the principal newspapers of the State, setting forth the amount and character of material to be furnished or work to be performed; and upon the reception of the bids or proposals, shall give the contract to the lowest bidder. Provided, however, if they shall believe that such person is not competent to the performance of the contract, or he shall fail within twenty days to execute the bond hereinafter required, they may give such contract to the next lowest. They shall require the person or persons taking such contracts to enter into bond, in double the amount of their respective contracts, payable to the State of Texas, with two or more good securities, to be approved by said commissioners, conditioned for the faithful and prompt performance of the contract, and for the payment of such damages as may be sustained by reason of a failure therein, which bonds shall be deposited by said commissioners in the Comptroller's office.

Sec. 5. It shall be the duty of the said superintendent to give his constant personal attention to the work as it progresses, and to see that each and every portion of the same is executed in the manner provided in the various contracts, and from time to time to report to said commissioners the progress of the various contracts, and the manner in which they are being executed. It shall be his special duty to note every departure from any contract on the part of the contractor, or any failure to perform in the manner stipulated, and give notice thereof, in writing, to the said commissioners, at his earliest convenience. He shall at all times, at the request of said commissioners, give them such information touching the progress of the work, the manner of its execution, the performance of contractors, &c., &c., as may be in his power; and shall also accompany said commissioners in their periodical visits of inspection, and give such explanation as may be required by them.

Sec. 6. It shall be the duty of the said commissioners, on the first Monday in each and every month, to inspect the work upon said building, and to enquire into the manner in which the various contracts are being executed; and if they shall find any portion of the work done or material furnished under any one of said contracts, of a character less valuable than stipulated for in said contract, they shall immediately give notice to the contractor that said work or material, as the case may be, will not be received; and unless such contractor immediately signifies his intention of procuring the proper material or of reconstructing the work, as the case may be; or in case he shall so signify and shall fail to furnish such material or perform such work, or such portion as the time will permit, within one month next after being so notified, said commissioners shall make known to him that his contract is at an end, and shall immediately proceed to let out said contract to some other person. Provided, however, if the said contractor shall have furnished any material, or done any work such as was contracted for, the said commissioners shall have the right, if in their judgment it is equitable and right, to allow the party its value, and may issue their drafts upon the Comptroller for the amount. It shall further be the duty of said commissioners to issue their drafts upon the Comptroller in favor of said contractors on the first Monday in each and every month, if required so to do, for the amount of the value of the work actually done, or material furnished; but in no case to allow the disbursement of money in favor of any contractor beyond what he is actually entitled to at the time.

Sec. 7. All the money appropriated by this act, shall be paid out by the Treasurer upon drafts drawn by the commissioners upon the Comptroller, in the manner provided for in the preceding section. The said commissioners shall keep a book, in which shall be kept an account with each contractor, stating the amount of the contract and several drafts drawn in their favor, and the date and amount of each, which book shall accompany their report to the Governor of the State, to be made as hereinafter provided.

Sec. 8. The said commissioners shall not let any contract which is not to be completed on or before the first day of November, 1853, otherwise the bond of the contractor shall be forfeited; unless by reason of the failure of some contractor, or other unavoidable circumstance, the said building would be left unfinished without extending a contract beyond that period. It shall further be the duty of said commissioners to report to the

Governor of the State, at the next regular meeting of the Legislature, the manner in which they have discharged the duties assigned them by this act, the character and condition of the building, the amount expended in its erection, the various persons contracted with, the amounts of the several contracts, the dates of the several bonds, together with the names of the obligors, the contracts which may have been forfeited, in whole or in part, and all other information relative to the erection of said building.

Sec. 9. It shall be the duty of the said commissioners to furnish the said superintendent with a copy of the contract specified in the bond of each contractor, and shall also give him such information from time to time as he may desire touching said contracts.

Sec. 10. It shall be the duty of the said superintendent to make his report to the Governor of the State, at the next regular session of the Legislature, of the manner in which the work on said building has been executed, noting in said report what contractors, if any, have failed to perform their contracts, in whole or in part, and what injury or loss resulted from such failure.

Sec. 11. The building herein provided for, shall be erected on the square, known upon the plan of the city of Austin as "Capitol Square," at the north end of Congress Avenue.

Sec. 12. And this act shall take effect from and after its passage.

Approved, February 14, 1852.

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## CHAPTER XCII.

### An Act creating a Board of Trustees for the County of Bastrop.

Section 1. Be it enacted by the Legislature of the State of Texas, That there shall be elected by the qualified electors of the county of Bastrop three Trustees, one of whom shall live in the corporate limits of the town of Bastrop and the other two in the county, who shall hold their office until the object contemplated by this act is completed; that said Trustees shall have power to sue and be sued, plead and be impleaded, in carrying out their duties under the provisions of this act.

Sec. 2. It shall be the duty of said Trustees to receive in

trust all the lands and tenements that are left unsold of the four leagues of land that were granted to the town and municipality of Mina, now the town and county of Bastrop.

Sec. 3. The present authorities of the corporation of the town of Bastrop are required to transfer to said Trustees all lands and evidences of lands; all the proceeds of leases that they may have made of the four leagues of land granted as specified in the second section of this act.

Sec. 4. It shall be the duty of said Trustees when put in possession of the lands and claims for leases as specified in the third section of this act, to proceed to sell such an amount of the lands as will be sufficient, together with the leases already made, to build a Courthouse and Jail in the town of Bastrop. The location and building of said Courthouse and Jail shall be under the control of the County Court.

Sec. 5. The said Trustees shall pay into the County Treasury all moneys that may arise for the sale or lease of said lands, to be drawn from said Treasury by order of the County Court; provided, no moneys shall be drawn by order of the County Court except for the building of a Courthouse and Jail.

Sec. 6. The Sheriff of the county of Bastrop shall be the officer for collecting all dues by the order of the Trustees and shall pay over to the County Treasury.

Sec. 7. Said Trustees shall receive from the Treasury three dollars per day for every day they shall be compelled to sit in the transaction of the business contemplated by this act. The Clerk of the County Court shall act as ex-officio Clerk of said Trustees, and shall record in a well bound book all the proceedings of said Trustees, for which services he shall receive the same fees as for the like services before the County Court.

Sec. 8. All sales made by the corporation, and all leases shall be confirmed by this act as if the same had been confirmed by the County Court.

Sec. 9. This act shall not be in force and effect until it shall have been ratified by the qualified electors of the county of Bastrop.

Sec. 10. It shall be the duty of the Chief Justice of the county of Bastrop to give twenty days notice, after he shall receive notice of the passage of this act, at the different precincts of the county, directing the presiding officers of said precincts to open and hold an election for or against the operation of this act, to be conducted according to the law regulating elections; and if a majority of all the votes given in, are in favor of this

law, then it shall be in force and effect, and if not, then it shall be void.

Sec. 11. Ten days after the ratification of this law by the electors of the county, the Chief Justice shall give ten days notice according to the laws now in force regulating elections, for the election of three Trustees as is contemplated by the provisions of this act. The three candidates in nomination that may receive the highest number of votes shall be declared elected by the Chief Justice of the county.

Sec. 12. It shall be the duty of said Trustees, after they shall have completed the Courthouse and Jail, to turn over to the corporation of the town of Bastrop, all lands and moneys, notes, bonds, or accounts in their hands, and said Trustees shall thereafter be released from further duties under this act, and the corporation of the town of Bastrop shall exercise and enjoy the entire control of the balance remaining unsold of said four leagues of land.

Sec. 13. All laws and parts of laws that may conflict with the provisions of this act are hereby repealed. In case of vacancy in the board of Trustees by decease, resignation or otherwise, the Chief Justice shall order a new election to fill said vacancy.

Sec. 14. The provisions of this act shall not be so construed as to affect any rights heretofore secured to individuals, citizens living within the corporate limits of the town of Bastrop.

Sec. 15. This act shall take effect from and after its passage.

Approved, February 14, 1852.

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### CHAPTER XCIII.

An Act supplementary to an act to define the time of holding the District Courts in the several Districts therein named, approved February, 1852.

Section 1. Be it enacted by the Legislature of the State of Texas, That the provisions of an act of which this is a supplement, to define the time of holding the District Courts in the several districts therein named, approved February, 1852, be so amended that all that relates to the Fifth Judicial District



shall take effect and be in force from and after the first day of March next.

Sec. 2. That this act be in force from and after its passage.

Approved, February 16, 1852.

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CHAPTER XCIV.

An Act to amend an act, entitled an act to organize County Courts, approved March 16th, 1848.

Section 1. Be it enacted by the Legislature of the State of Texas, That the twentieth section of the above recited act be, and the same is hereby so amended as to read as follows:

"Section 20. That the regular terms of the County Court shall commence and be held at the Courthouse of each county in this State on the last Monday in every month, for the probate of wills, the granting of letters testamentary, of administration and of guardianship, and the transaction of all business growing out of or connected with the powers and jurisdiction of the County Courts, over executors, administrators and guardians, and the estates of deceased persons, minors, idiots, lunatics, and persons non compos mentis; such terms shall be held by the Chief Justice without the assistance of any of the County Commissioners, and may be continued from day to day for one week, but not longer; and the Chief Justice shall have the authority to transact such business growing out of, or connected with such powers and jurisdictions during the vacation between said terms of said Court as may be authorized by law; provided, that the County Court of Washington county shall commence and be held on the first Monday in every month for the purposes above specified."

Sec. 2. That this act be in force from and after the first day of March, 1852.

Approved, February 16, 1852.

## CHAPTER XCV.

## An Act to prevent the Locating and Patenting of certain Lands in Bexar County.

Section 1. Be it enacted by the Legislature of the State of Texas, That hereafter it shall not be lawful to locate a land certificate, warrant or scrip, on any lands heretofore titled or equitably claimed and situate within the county of Bexar; and the Commissioner of the General Land Office is hereby prohibited from hereafter issuing a patent upon a location on any of the lands described in this act, and should a patent be hereafter issued for any of such lands, the said patent shall be null and void.

Approved, February 16, 1852.

## CHAPTER XCVI.

## An Act to regulate Mustang Chases.

Section 1. Be it enacted by the Legislature of the State of Texas, That any individual wishing to chase mustangs shall apply to and receive from the Chief Justice or Justice of the Peace of the county in which he may be, a written passport, which shall include the name and number of self and associatess; provided, that applicant is known to said officers as a responsible citizen, otherwise sufficient bond and security shall be demanded before the delivery of the passport.

Sec. 2. That the persons applying for the said passport shall be responsible for the orderly conduct of those associated with him, and that all animals taken shall be presented to the authorities, and such taxes paid on them as may be prescribed by this act.

Sec. 3. That there shall be paid to the County Treasurer of the corresponding county, for the use of said county, a tax of twenty-five cents for each mustang, and two dollars for each mule so presented.

Sec. 4. That the Treasurer shall keep a register of the number of all animals so presented, and the amount of tax paid

thereon, each of which entries shall be signed by the person so paying, the Chief Justice of the county and the Treasurer.

Sec. 5. Branded beasts taken in the chase shall be disposed of according to the estray law.

Sec. 6. That the officer issuing the passport above described shall be entitled to receive from the party applying, the sum of fifty cents for each one issued.

Sec. 7. That the Treasurer shall be allowed five per cent. upon all moneys collected by him in pursuance of the provisions of this act.

Sec. 8. That all violations of this law shall be punished by fine of not less than twenty-five nor more than fifty dollars, or such imprisonment in the Jail or Workhouse as the Court may prescribe, not exceeding two months.

Sec. 9. That this act take effect from its passage.

Approved, February 16, 1852.

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## CHAPTER XCVII.

### Joint Resolutions recommending General Sam Houston for the Presidency.

Whereas, the time is approaching when the freemen of the United States will again exercise their constitutional right of selecting by untrammelled action, one of their fellow-citizens to fill the highest office within their gift; and,

Whereas, it is, in the opinion of the Representatives of the Legislature, a matter of the very greatest importance to the people of the several States of the Union, that the office of President of the United States be filled by an individual capable and worthy as a man—truly democratic and devoted to the National Union as a politician; and,

Whereas, General Sam Houston is a statesman who possesses the aforesaid qualities, and whose talents, experience and principles, in a prominent degree, entitle him to the support of the freemen of the United States for the first office within their gift; therefore, Resolution 1. Be it resolved by the Legislature of the State

of Texas, That General Sam Houston be, and he is hereby recommended to the National Democratic Convention for nomination as a candidate for the office of President of the United States.

Resolution 2. That General Sam Houston be, and he is hereby recommended to the freemen in general of the several States of the Union, as a statesman whose high order of talents, long experience in public life, sound democratic principles and unwavering attachment to the National Union, render him altogether worthy of and justly entitled to receive at their hands the highest office within the gift of any people.

Resolution 3. That the delegates that may be appointed by the democratic State Convention of this State to the National Democratic Convention be, and they are hereby requested to present to said National Convention a copy of these resolutions.

Passed, February 10, 1852.

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## CHAPTER XCVIII.

An Act making an appropriation for the payment of the Third Class Debt.

Section 1. Be it enacted by the Legislature of the State of Texas, That the following sums be, and the same are hereby appropriated for the payment of what is called the third class debt, viz:

To John J. Brown, three hundred and sixty dollars and eighty cents.

To John Brown, one hundred and twenty-four dollars.

“ J. C. Caldwell, one hundred and eight dollars.

“ M. M. Kinzey, four hundred and twenty-three dollars and fifty cents.

To Wm. B. Jaquez, two hundred and forty-eight dollars and twenty-five cents.

To Wm. H. Moses, one hundred and fifty dollars.

“ D. H. Van Baeton, two hundred and thirty dollars.

“ Thos. W. Hunt, one hundred and fifty-four dollars.

“ E. Kellett, one hundred and fifty-four dollars.

“ J. R. Mitchurson, thirty dollars.

To Sam Bogart, three hundred and twenty dollars.

“ Alex. Matthews, two hundred and thirty dollars.

“ J. J. Webb, thirty-three dollars.

“ H. Reed fifty-two dollars and fifty cents.

“ John C. Burriss, thirty-three dollars and thirty-three cents.

“ H. Owing, twenty-five dollars.

“ Donald Smith, one hundred and sixty-eight dollars and sixty-six cents.

To Antonio Navarro, twenty-seven dollars.

“ E. S. C. Robertson, two hundred and four dollars and sixty-cents.

James Dunn, thirty-three dollars and thirty-three cents.

To Lamar Moore, forty dollars.

“ William E. Howeth, five hundred and forty-two dollars.

“ William Allison, one hundred dollars.

“ Edwin Seiders, fifty-eight dollars and eighty-seven cents.

“ John C. Pool, one hundred and sixty-three dollars and eighty cents.

To John W. Hall, seventy dollars.

“ E. H. R. Wallis, twenty-one dollars and fifty cents.

“ J. W. Robinson, one hundred and eight dollars.

“ Thompson and Hopson, twenty-nine dollars and ninety-five cents.

To W. D. Thompson, three dollars and eighty-three cents.

“ John Neill, fifteen dollars.

“ Craner Ford, thirty dollars.

“ H. Crabb, thirty dollars.

“ Alfred Brumberry, sixteen dollars and sixty-six cents.

“ Robert Smithers, one hundred and forty dollars.

“ Isaac McGary, seventy-six dollars and sixty-six cents.

“ Lewis Beardsley, one hundred and fifty-four dollars.

“ Andrew Martin, sixty dollars.

“ C. L. Moore, sixty dollars.

“ J. R. Beachum, thirty dollars.

“ George W. Ricks, two dollars and sixty-six cents.

“ Wm. P. Smith, ten dollars.

“ Noel Mixon, seventy dollars and eighty-three cents.

“ David Wright, twenty dollars.

“ Thomas Spears, seventy-two dollars.

“ James C. Allen, fifty-four dollars.

“ A. B. Killough, two hundred and twenty-four dollars.

“ Charles Kilgore, thirty-three dollars and thirty-three cents.

“ Thompson and Hobson, assignees of S. B. Standefer, thirty-three dollars and thirty-three cents.

- To A. Thompson, fifteen dollars and seventy-five cents.  
" Spencer Rice, thirty dollars.  
" John S. Stump, one hundred and fifty-eight dollars.  
" Joseph F. Daniels, thirty dollars.  
" Robert Kennedy, one hundred and fifty-six dollars.  
" William Connell, twenty-five dollars.  
" J. S. Sutton, one thousand one hundred and sixty-six dollars and twenty-cents.  
To John P. Rozin, thirty dollars.  
" Walter Palmer, one hundred and fifty-six dollars.  
" H. B. Bush, nineteen dollars and sixteen cents.  
" James M. Lindsey, sixty-five dollars.  
" Benjamin Petit, one hundred and thirty-five dollars.  
" Robert E. Beasley, seventy-five dollars.  
" M. B. Shackelford, thirty-three dollars.  
" F. Hughes, sixty-seven dollars and fifty cents.  
" M. C. Roundtree, nineteen dollars.  
" George N. Downs, two hundred and thirty dollars.  
" Francis Hughes, one thousand three hundred and sixty-one dollars and sixty-seven cents.  
To C. H. Raymond, one hundred and two dollars and thirty-seven cents.  
To John A. Cummings, one hundred and fifty-four dollars and thirty-three cents.  
To Esther Clark, eighteen dollars.  
" Sam. Ralph, one hundred and sixty-seven dollars and thirty-three cents.  
To Jacob Elliott, one hundred and fifty-four dollars.  
" L. H. Smith, twenty-four dollars.  
" Jonathan Scott, twenty-eight dollars and fifty cents.  
" Uriah S. Case, twenty-five dollars and sixty-six cents.  
" George W. Whiteside, one hundred and fifty-five dollars and twenty cents.  
To J. Sirvienta de Cologne, two hundred and twenty-four dollars and fifty cents.  
To Jose Cassiana, two hundred and thirty-six dollars.  
" Thomas R. Bright, thirty dollars.  
" J. W. Robertson, sixty dollars.  
" John P. Borden, one hundred and fifty-five dollars and twenty cents.  
To John B. Berry, two hundred and thirty dollars.  
" M. R. Goheen, four hundred and thirty-three dollars and six cents.

To Stephen Rogers, two hundred and five dollars and seventy-two cents.

To C. McAnelly, three hundred and forty-four dollars.

“ William Cockburn, sixty-three dollars.

“ Catharine Clampet, twenty-two dollars and fifty cents.

“ James McGloin, thirty dollars.

“ R. M. Tyas, sixty-six dollars and sixty-six cents.

“ John Baker, nine dollars.

“ Q. O. Blair, seventy-nine dollars.

“ James L. Truehart, thirty-five dollars.

“ J. L. Truehart, assignee John McClanahan, thirty-five dollars.

To John F. Sapp, one hundred dollars.

“ George G. Hancock, thirty dollars.

“ Pleasant Thorp, thirty-three dollars and thirty-three cents.

“ Charles Tom, thirty dollars.

“ Gabriel Smith, thirty dollars.

“ Adolphus Ebner, one hundred and fifty-four dollars.

M. Campbell, per John Husman, one hundred and fifty-nine dollars and thirty-three cents.

To S. Fuqua, forty-five dollars.

“ C. Buster, twenty-five dollars.

“ G. B. Erath, forty dollars.

“ G. B. Erath, thirty dollars.

“ Wiley Jones, one hundred and ninety-five dollars.

“ Henry Walker, twenty dollars.

“ Joseph J. Addison, thirty-three dollars and thirty-three cents.

To A. Summerville, nine hundred and sixty-eight dollars.

“ David Hoofman, assignee of Saul Chairs, sixty dollars.

“ Francis White, by assignee Francis Brichta, two hundred and thirty dollars.

To Thomas M. League, thirty-one dollars and twenty cents.

“ Antonio de la Garza, one hundred and thirty dollars.

“ Jesus Cantu, eighty-three dollars.

“ A. S. Ruthven, five hundred and forty-one dollars and fifty cents.

To B. C. Sanchez, two hundred and eighty-three dollars and sixty-three cents.

To Sam Whiting, jr., assignee, one hundred and sixty-nine dollars and ninety cents.

To Sam Whiting, jr., three dollars and forty-six cents.

“ Thos. Dillard, dec'd, six hundred and eighty-six dollars and sixty-six cents.

To Thos. Dillard, dec'd, one hundred and forty-five dollars and eighty-eight cents.

To Thos. Dillard, assignee S. M. Martin, eighty-two dollars and twenty-eight cents.

To Dillard and Cook, twenty-two dollars and fifty cents.

" Randal Robertson, thirty-three dollars and thirty-three cents.

To William Pay, eighty-six dollars.

" Samuel W. Wybrants, forty dollars and fifty cents.

" John Chain, three hundred and ninety-seven dollars and twenty-five cents.

To William A. Matthews, one hundred and two dollars.

" John Trumbilson, fifteen dollars.

" James M. Day, thirty-three dollars.

" Andrew Lockhart, one hundred and five dollars.

" James Martin, two hundred dollars.

" John O'Bar, fourteen dollars.

" John Neill sixty dollars.

" John S. Bell, one hundred and twenty-five dollars.

" James Addison, thirty-three dollars.

" E. M. Jones, thirty-three dollars and thirty-three cents.

" J. Luds, one thousand and ninety-eight dollars and five cents.

To J. Benton Johnson, one hundred and fifty dollars.

" James Overton, thirty-three dollars and eighty-three cents.

" Albert Gallatin, nineteen dollars and twenty cents.

" Charles Porner, four hundred and thirty-three dollars.

" Matthew Barnett, deceased, three hundred and ninety-five dollars.

To M. H. Shoyock, thirty-five dollars and thirty-seven cents.

" M. Parker, Benj. Cryor and J. D. Watkins, two hundred and four dollars and ninety-nine cents.

To B. J. Chambers, assignee Jno. Coplin, twenty dollars and eighty-three cents.

To John H. Heald, assignee of Fulton & Brunnuett, one hundred and thirty-four dollars.

To Thos. O'Connor, two hundred and seventy-five dollars.

" Peter Delbrel, one hundred dollars.

" Jas. Alex. Perjavors, sixty dollars.

" Fred. Coon, one thousand seven hundred and sixteen dollars and fifty cents.

To John W. Bower, one hundred and twenty dollars.

" Rob. F. Horvell, two hundred and ten dollars.

" William G. King, thirty dollars and eighty-three cents.



- To Gustavus Elly, three hundred and forty-five dollars.  
" Richard J. Lloyd, sixty-seven dollars and fifty cents.  
" A. Helm, twenty dollars and thirty-three cents.  
" W. Miller, twenty dollars and thirty-three cents.  
" Dickerson Garrett, forty dollars and eighty-three cents.  
" John Park, ninety-five dollars and eighty-three cents.  
" Samuel Arnold, two thousand and seventy-three dollars.  
" C. C. Eddingburg, fifty dollars.  
" John Winters, fifty dollars.  
" J. J. Brantly, twenty dollars and eighty-three cents.  
" John Woods, twenty dollars and eighty-three cents.  
" A. McNeill, assignee James R. Jones, twenty dollars and eighty-three cents.  
To John D. Murphy, sixteen dollars and sixty-six cents.  
" Isaac P. Bean, twenty-three dollars.  
" Thomas Cresap, eighty dollars.  
" Benjamin Edwards, eighty-seven dollars and sixty-six cents.  
" James Tubbs, twenty-five dollars.  
" Martin D. Hart, eighteen dollars and thirty-three cents.  
" A. J. Wood, by assignee, M. D. Hart, eighteen dollars and thirty-three cents.  
To Meridith Hart, eighteen dollars and thirty-three cents.  
" Free L. Hart, eighteen dollars and thirty-three cents.  
" Hardin Hart, eighteen dollars and thirty-three cents.  
" Martin D. Hart, assignee Curtis Jernagin, one hundred and fifty-dollars.  
To John W. Carpenter, one hundred dollars.  
" Jas. Hutton, two hundred and fifty-seven dollars and eighty-seven cents.  
To John Lussan, three hundred and eighty-nine dollars and eighty-three cents.  
To Benjamin Booth, twenty-eight dollars.  
" Wm. M. Hambleton, fifty-six dollars.  
" Robert McWilliams, fifty-five dollars and fifty cents.  
" William Todd, two hundred and fourteen dollars.  
" George W. Tumlinson, twelve dollars.  
" William Sasser, assignee Geo. A. Boss, fifty dollars.  
" Edward Tyler, four hundred and seventy-eight dollars and ten cents.  
To William Sasser, sixty-five dollars.  
" R. Barrington, sixty dollars.  
" Robert Madden, sixty dollars.  
" Issaac Parker, twenty-five dollars.  
" John B. Williams, twenty-five dollars.

- To S. Barrett, fourteen dollars and twelve cents.  
 " Eliza Peak, twenty-one dollars and fifty cents.  
 " J. Shackelford, three hundred and thirty-three dollars and seventy-five cents.  
 To E. S. Perkins, one hundred and twenty dollars.  
 " James Clark, thirty-three dollars and thirty-three cents.  
 " Antonio Leal, three hundred and twenty dollars.  
 " Jackson Crouch, twenty dollars and eighty-three cents.  
 " R. McCuiston, fifty-five dollars.  
 " Martin Copland, twenty dollars and eighty-three cents.  
 " Charles S. Walden, thirty-three dollars and thirty-three cents.  
 To Steven Richardson, seventy-five dollars.  
 " F. Neibling, assignee, four hundred dollars.  
 " William Wilkinson, thirty-three dollars and thirty-three cents.  
 To William W. Oxsheer, thirty-three dollars and thirty-three cents.  
 To William Oldham, thirty-three dollars and thirty-three cents.  
 To Neill McLennan, eighty-five dollars and fifty-eight cents.  
 " Neill R. Robertson, seventy-five dollars.  
 " John McClellan, one dollar.  
 " R. Flippert, John Casey, H. E. Scott, S. Walker, Eli Davis, J. J. Owen, each thirty-three dollars and thirty-three cents.  
 To Thomas H. Eaton, forty-five dollars.  
 " S. B. Killough, self and others, one hundred dollars.  
 " H. F. Stockman, twenty-five dollars.  
 " Juan Rodriguez, thirty dollars.  
 " John Woodruff, three hundred and eighty dollars.  
 " David Mumford, thirty-three dollars and thirty-three cents.  
 " John Latham, forty-four dollars.  
 " John Dial, ninety-five dollars and eighty-seven cents.  
 " Jos. Dial, twelve dollars.  
 " Jos. Hall, sixty dollars.  
 " William Hall, one hundred and one dollars.  
 " James Graham eight dollars.  
 " Thos. Chism, twenty-nine dollars and thirty-three cents.  
 " David Allen, Wm. H. Brown, Joseph Baker, C. Baker, John Cornelison, Wm. Davis, Wm. G. Gavin, Mitchell Keller, J. J. Morrison, Uriah D. Pace, Willard Stowell, Elijah Jackson, James Jackson, Ira Isham and James Isham, each eighteen dollars and thirty-three cents.  
 To Sam Farrar, forty dollars.

- To Hugh Vandevender, twenty dollars and thirty-three cents.  
" William M. Burton, seventy five dollars.  
" John Twohig, two hundred and two dollars aud sixty-two cents.  
To H. Gunter, seventy-six dollars and eighty cents.  
" L. B. Prendergast, Eli Chandler, G. G. Bowen, Squire Campbell and Alvan Perkins, each thirty-three dollars and thirty-three cents.  
To Morgan and Cavanaugh eighty dollars.  
" Joseph Tomlinson, fifteen dollars.  
" Thomas P. Plaster, sixty-two dollars and fifty cents.  
" John Arnold, twenty dollars and eighty-three cents.  
" Francis Arriola, twenty dollars and eighty-nine cents.  
" John Beech, twenty dollars and eighty-three cents.  
" James E. Buchannon, twenty dollars and eighty-three cents  
" Juana Leal Z. Terine, seventy-four dollars.  
" William S. Holmes, sixty-six dollars and sixty-six cents.  
" Jos. A. McMurry, thirty-three dollars and thirty-three cents  
" Craner Ford, fifteen dollars and eighty-three cents.  
" Rob. S. Raburn, thirteen dollars and thirty-three cents.  
" J. O'Bar, thirty-three dollars and thirty-three cents.  
" Thos. Barnett, one hundred and forty dollars.  
" Richard Williams, fifty dollars.  
" Henry Alston, twenty dollars and eighty-three cents.  
" J. R. Matthews, twenty dollars and eighty-three cents.  
" Michael Fox, two hundred and seventy dollars.  
" H. B. Elliott, two hundred and eleven dollars and eighty-six cents.  
" H. J. Stockman, forty dollars.  
" Kughn & Co., one hundred and thirty-two dollars and fifty cents.  
To John T. Tinsley, twelve dollars.  
" Jno. G. McGuffin, thirty-three dollars and thirty-three cents.  
" Thos. H. O. S. Addicks, pr. assignee, fifty-five dollars.  
" James Dunn, Y. Baker, Jos. Henson, Thos. J. McCullom, Jesse Johnson, L. Willson, Anderson Worley and J. D. Taylor, each twenty dollars and thirty-three cents.  
To J. H. Illies, for assignee, sixteen hundred and sixty dollars and forty cents.  
To William R. Sanders, sixty-two dollars and fifty cents.  
" Leonidas Sanders, sixty-two dollars and fifty cents.  
" John Kasner, thirty-three dollars and thirty-seven cents.  
" J. M. Robinson, deceased, twenty-one hundred and thirty-two dollars and thirty-eight cents.

To Elijah Stapp, twenty dollars.

“ A. R. Bowen, twenty dollars and eighty-three cents.

“ Volney Cavitt, twenty dollars and eighty-three cents.

“ Joseph Rogers, twenty dollars and eighty-three cents.

“ Martin Barringer, one hundred and ninety-five dollars.

“ David S. Files, twenty dollars and eighty-three cents.

“ Geo. M. Weekly, twenty dollars and eighty-three cents.

“ John Adams, John Rowen, S. A. Miller and John W. Thomas, each twenty-five dollars.

To B. Canfield, deceased, twenty-eight dollars.

“ Jesse Smith and James W. Smith, each twenty dollars and eighty-three cents.

To George Green, fifty-three dollars thirty-three cents.

“ John P. Eubanks and William Bowen, each twenty dollars and eighty-three cents.

To Chas. B. Ridgill and John T. Whitesides, each twenty dollars and eighty-three cents.

To George K. Sneed, one hundred dollars.

“ John Hemphill, thirty-five dollars.

“ William M. Rice, two hundred and eighty-nine dollars and thirty-four cents.

To McKinney and Williams, three thousand dollars.

“ Harvey Brigrance, twenty dollars and eighty-three cents.

“ L. M. Stewart, ten dollars.

“ Roberts & Co., fifty-five dollars.

“ Russel Waid, sixteen dollars.

“ David Strickland, one hundred and sixty-five dollars.

“ Sam. Strickland, sixty-four dollars.

“ A. G. Moore, twenty dollars and eighty-three cents.

“ Joseph L. Worsham, twenty dollars and eighty-three cents.

“ Henry Smock, fifty dollars.

“ Wiley Jones, thirty-three dollars and thirty-three cents.

“ James Spillers, thirty-three dollars and thirty-three cents.

“ Nelson Spillers, thirty-three dollars and thirty-three cents.

“ Wm. Ellkins, thirty-three dollars and thirty-three cents.

“ Jno. Darwin, pr. Thos. S. Pinckney, thirty-three dollars and thirty-three cents.

“ Paul Bremond, one hundred and fifty-eight dollars and thirty-one cents.

To Chas. Lindsey, twenty dollars.

“ W. B. Baker, one hundred and sixteen dollars and fifty-five cents.

To Albert McFarland, one hundred and fifty dollars.

“ James McFarland, one hundred and fifty-three dollars.

To E. P. Robinson, twenty dollars and eighty-three cents.

“ Joshua Burr, forty-three dollars and seventy five cents.

“ H. F. Stockman, twenty-eight dollars and thirty-three cents.

Sec. 2. If in paying the above amounts, the Comptroller shall find that any of them, or any portion thereof, has been otherwise allowed or paid, the amount thus found to have been paid shall be deducted.

Sec. 3. This act shall take effect from its passage.

Approved, February 16, 1852.

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## CHAPTER XCIX.

**An Act making appropriations for the use and support of the State Government for the years 1852 and 1853.**

Section 1. Be it enacted by the Legislature of the State of Texas, That the following sums be, and the same are hereby appropriated for the support of the Government of the State for the years 1852 and 1853:

### EXECUTIVE DEPARTMENT.

For salary of the Governor of the State, two thousand dollars annually—four thousand dollars.

For Salary of the Governor's Private Secretary, seven hundred dollars annually—fourteen hundred dollars.

For porter hire, one hundred and twenty dollars annually—two hundred and forty dollars.

For postage, one hundred and fifty dollars annually—three hundred dollars.

For stationery and printing, one hundred dollars annually—two hundred dollars.

For wood and water, one hundred and thirty dollars annually—two hundred and sixty dollars.

For office furniture, one hundred dollars annually—two hundred dollars.

For outstanding claims against Executive Department, porter hire, fifty-five dollars; stationary, sixty-five dollars and eighty one cents; office furniture, eighty-six dollars and ninety-

two cents; and water twenty dollars—two hundred and twenty-seven dollars and seventy-three cents.

GENERAL LAND OFFICE.

For salary of Commissioner of General Land Office, fifteen hundred dollars annually—three thousand dollars.

For Salary of Chief Clerk in General Land Office, one thousand dollars annually—two thousand dollars.

For salary of draughtsman in General Land Office, one thousand dollars annually—two thousand dollars.

For salary of assistant draughtsman in General Land Office, eight hundred dollars annually—sixteen hundred dollars.

For salary of Spanish Clerk in General Land Office, one thousand dollars annually—two thousand dollars.

For salary of eight assistant Clerks in General Land Office, seven hundred dollars each, annually—eleven thousand two hundred dollars.

For books and stationery, three hundred dollars annually—six hundred dollars.

For postage, one hundred and fifty dollars annually—three hundred dollars.

For contingent expenses of new Land Office, five hundred dollars annually—one thousand dollars.

STATE DEPARTMENT.

For salary of Secretary of State, one thousand dollars annually—two thousand dollars.

For salary of Clerk in State Department, seven hundred dollars annually—fourteen hundred dollars.

For contingent expenses of State Department, two hundred and fifty dollars annually—five hundred dollars.

For printing for Department, three hundred dollars annually—six hundred dollars.

For postage for Department, two hundred dollars annually—four hundred dollars.

For stationery for Department, one hundred dollars annually—two hundred dollars.

For distributing the Laws, Journals and Reports of the Supreme Court, two thousand dollars.

For outstanding claims against State Department for 1848, fourteen dollars.

ADJUTANT GENERAL'S OFFICE.

For Salary of Adjutant General, one thousand dollars annually—two thousand dollars.

For contingent expenses, including printing, one hundred and fifty-dollars annually—three hundred dollars.

For cleaning and keeping in repair six hundred stand of arms, fifty dollars annually—one hundred dollars.

For repairs to the building occupied by the Adjutant General, one hundred dollars.

TREASURY DEPARTMENT.

For salary of Treasurer of the State, twelve hundred dollars annually—twenty-four hundred dollars.

For salary of Clerk in the Treasurer's office, seven hundred dollars annually—fourteen hundred dollars.

For contingent expenses of Treasurer's Office, two hundred dollars annually—four hundred dollars.

For outstanding liabilities of Treasurer's office, thirty-five dollars.

For printing for Treasurer's office, annually one hundred dollars—two hundred dollars.

COMPTROLLER'S OFFICE.

For salary of Comptroller of Public Accounts, twelve hundred dollars annually—twenty-four hundred dollars.

For extra services of Comptroller in connection with Auditorial Board, three hundred dollars annually—six hundred dollars.

For salary of Chief Clerk of Comptroller's office, one thousand dollars annually—two thousand dollars.

For salary of four assistant Clerks, at seven hundred dollars each annually—five thousand six hundred dollars.

For contingent expenses, two hundred dollars annually—four hundred dollars.

For stationary and books, two hundred and fifty dollars annually—five hundred dollars.

For printing, three hundred dollars, annually—six hundred dollars.

For postage, two hundred dollars annually—four hundred dollars.

For Cushney & Hampton, for printing, as per bill, two hundred and ninety-seven dollars.

For De Cordova & Co., for printing as per bill, twenty-five dollars.

For erection of a building for store-room for Archives—four hundred dollars.

For the erection of two chimneys to Treasury building—one hundred and fifty dollars.

#### AUDITOR'S OFFICE.

For salary of Auditor, twelve hundred dollars annually, so long as may be necessary for closing the business of said office.

#### JUDICIARY DEPARTMENT.

For salary of three Judges of the Supreme Court, two thousand dollars each, annually—twelve thousand dollars.

For salary of Attorney General, fifteen hundred dollars, annually—three thousand dollars.

For salary of twelve Judges of the District Courts, at seventeen hundred and fifty dollars each, annually—forty-two thousand dollars.

For salary of twelve District Attorneys, at five hundred dollars each, annually—twelve thousand dollars.

For contingent expenses of Attorney General's office, one hundred dollars, annually—two hundred dollars.

For pay of A. M. Lewis, Robert Hughes, John Sayles, James Willie and B. F. Caruthers, as special Judges of the Supreme Court, one hundred dollars, each—five hundred dollars.

#### LEGISLATIVE DEPARTMENT.

For per diem pay of ninety-four Senators and Representatives, at three dollars per day, each, for one hundred and six days—twenty-nine thousand six hundred and ten dollars.

For pay of the officers of the Legislature, say nine Clerks, and Sergeant-at-Arms and Door-Keepers, making thirteen officers, at four dollars per day, each, for one hundred and six days, five thousand five hundred and twelve dollars; less the sum of twenty-five thousand dollars heretofore appropriated for the pay of the members and officers of the Fourth Legislature.

For salary of Reporter, at four dollars per diem—four hundred and twenty-four dollars.

#### PENITENTIARY.

For support of the Penitentiary, twenty-two thousand



two hundred and sixty-eight dollars, annually—forty-four thousand five hundred and thirty-six dollars.

MISCELLANEOUS.

For pay of H. B. Boston, Assessor and Collector of Montgomery county, for costs incurred where suits were brought for violation of license tax, twenty-two dollars and ten cents.

For Christian S. Crutzberge, making irons for Gray, a convict, fifteen dollars.

For A. Dismuke, surgical attendance on Gray, a wounded convict, thirty-five dollars.

For C. Bryan, keeping, nursing and dressing wounds of Gray, a convict to the Penitentiary, wounded in his capture, seventy-eight dollars.

For pension to John Frederick, permanently disabled, annually, ninety-six dollars—one hundred and ninety-two dollars.

For Jose Q. Warnes, for translating sundry documents recommended by the Governor, sixty-five dollars and seventy-three cents.

For Jose Q. Warnes, recommended as above, fifty-six dollars and ninety-three cents.

For printing the Laws and Journals of the fourth Legislature, nine thousand dollars, or so much thereof as may be necessary.

For postage on the Laws and Journals, distributed to the several counties, five hundred dollars, or so much thereof as may be necessary.

For translating and printing such general laws and public documents as the Governor may deem advisable, in the Spanish and German languages—not to exceed fifteen hundred dollars.

For purchase of stationery for next Legislature, to be drawn and disbursed under the direction of the Comptroller, five hundred dollars.

For pensions of disabled seamen, four hundred dollars, annually—eight hundred dollars.

For Fleeson & Palmer, for publishing in the American Flag in 1847, the laws of Texas relating to elections and orders of elections, in the English and Spanish languages, fifty dollars, as previously allowed.

For expenses incurred in the necessary repairing and furnishing the Attorney General's Office, upon the accounts being approved by the Comptroller of Public Accounts, three hundred and seventy-seven dollars.

For survey of University lands, two hundred dollars.

For James F. Johnson, for amount paid Guadalupe Lopez for bringing returns of election from El Paso county to the seat of Government, one hundred and eighty-five dollars.

For pay of Chaplain to the Senate, three hundred dollars.

For pay of extra clerk in the Comptroller's office, from first November, 1851, to first February, 1852, one hundred and seventy-five dollars.

For pay of John T. Powers, as a balance due him for distributing the Digest, Laws and Journals of the State of Texas in certain counties, as per contract with the Secretary of State, dated 2nd January, 1851, two hundred and fifty dollars.

For amount of claim allowed at the present session of the Legislature, to be paid in the United States Bonds, now in the possession of this State, nine hundred and thirty eight dollars to Memucan Hunt.

For Alexander Ewing, one thousand dollars, or so much as may be due.

For John Blair, one hundred and four dollars and twelve cents.

For apprehension and delivery of criminals, one thousand dollars annually—two thousand dollars.

For William S. Glass, for moneys collected for the State, one hundred and twenty-six dollars.

For Block of marble for the Washington Monument, one thousand dollars; and for the Texas Monument, one thousand dollars.

For out standing accounts for public printing, or so much thereof as may be necessary; provided, that no such claim or account shall be paid when the work was not expressly authorized to be done, five thousand dollars.

For amount advanced by P. H. Bell and James B. Shaw, in paying the expenses of the latter to and from Washington city, on business of the State, two hundred and fifty dollars, each.

For the procurement of a suitable residence for the Governor, the sum of five hundred dollars, annually, in accordance with an act approved February 16, 1848, should the same be necessary.

For pay of J. M. Blackwell for work done on the Supreme Court room, eighty-one dollars and seventy two cents.

For contingent expenses of the Auditor's office, one hundred and fifty dollars, annually—three hundred dollars.

For pay of the expenses of the escort of Santa Anna from Texas to Washington City, and the interest thereon, by act of February 9, 1850, three thousand and ninety dollars.

For pay of Peter Nickels, Sheriff of Cameron county, for twelve extra guards employed in taking eleven convicts from Cameron county to the State Penitentiary, eight hundred dollars.

Sec. 2. That one-tenth of the annual revenue arising from direct taxation of the State be, and the same is hereby set apart for the purpose of education, to be drawn from the Treasury in accordance with such laws as may be enacted.

Sec. 3. That the Treasurer of the State be, and he is hereby authorized to transfer a sufficient amount of the five per cent. United States Bonds to the account of the General School Fund, to cover the amount of thirty-six thousand dollars now to the credit of said Fund, in State Bonds issued in accordance with an act for the safe and profitable investment of the School Fund, approved December 2d, 1850; also to cover the amount of specie now in the Treasury to the credit of said Fund; and that all interest accruing upon said United States Bonds, from and after the first day of January, 1852, shall accrue to the benefit of the General School Fund.

Sec. 4. That so much of the interest accruing upon the bonds of indemnity issued by the United States to the State of Texas as may be necessary for that purpose be, and the same is hereby set apart and appropriated to pay the several amounts herein appropriated, which shall be drawn for and paid out in conformity with the laws providing for the payment of money out of the Treasury of the State; and that this act take effect from its passage.

Approved, February 16, 1852.

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## CHAPTER C.

### An Act concerning the Archives of the Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That it shall be the duty of the present Secretary of the Senate, and Chief Clerk of the House of Representatives to carefully arrange, and file the entire archives of the Congress of the late Republic of Texas and of the State Legislature, and place the same under proper labels, in a safe and convenient receptacle to be provided for the purpose; and, also, to record in

suitable blank books of uniform size and manufacture, to be procured for that purpose by the said Secretary and Chief Clerk, to complete journals of the said Congress and State Legislature, with ample and convenient side notes and indexes, so far as the same have not heretofore been recorded; the whole to be executed with the utmost uniformity, neatness and accuracy; for which they shall be entitled to receive compensation at the rate of fifteen cents per hundred words for the work so executed by them respectively.

Sec. 2. That the said books when prepared as aforesaid, together with the archives, to be arranged and filed as contemplated by this act, shall be deposited in the General Land Office building, for their better security and preservation, until other provision shall have been made by the Legislature.

Sec. 3. That from and after the passage of this act, it shall no longer be the duty of the Secretary of the Senate and Chief Clerk of the House of Representatives to furnish copies of the journals to the public printer; but instead thereof, the Secretary and Clerk at the time in office, shall furnish the original sheets to the said printer, after the same shall have been approved by the respective Houses, and after they shall have been carefully recorded as provided for in the first section of this act; and so much of the second section of an act, entitled "an act regulating the public printing," approved March 8, 1848, as conflicts with the provisions of this section, is hereby repealed.

Sec. 4. That the amount necessary to cover the expense of the purchase of books, and the work to be done under the provisions of this act, is hereby appropriated out of any money in the Treasury not otherwise appropriated; and that this act take effect from and after its passage.

Approved, February 16, 1852.

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## CHAPTER CI.

An Act making an additional appropriation for the Contingent Expenses of the Fourth Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of three thousand dollars be, and the same is hereby appropriated for the payment of the contingent ex-

penses of the Fourth Legislature in addition to the appropriations heretofore made, and that this act take effect and be in force from and after its passage.

Approved, February 16, 1852.

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CHAPTER CII.

Joint Resolution instructing our Senators and requesting our Representatives to use their influence to procure the incorporation of the Officers of the late Navy of Texas, into the Navy of the United States.

Whereas, there were connected with the great measure of annexation to the confederacy of which we are now a member, various reciprocal rights and conditions prescribed by the terms thereof, as well as others clearly implied and fairly deducible from the same, all of which Texas has on her part fully and completely redeemed; and,

Whereas, it is the opinion of this Legislature, that the officers of our late Navy, by a liberal and just construction of the terms of annexation, should be incorporated into the Navy of the United States in their several ranks, and that they are justly entitled to the same, as well from the construction here claimed, as from their high characters, personal and professional, and the zeal, fidelity, patriotism, and valor with which they sustained the cause of their country during her struggle for Independence; therefore,

Section 1. Be it resolved by the Legislature of the State of Texas, That our Senators are hereby instructed and our Representatives in Congress requested, to use their influence to procure the passage of a law by the Congress of the United States, incorporating the officers of the late Navy of Texas into the Navy of the United States, in the rank which they severally held in the late Navy of Texas.

Sec. 2. Be it further resolved, That the Governor be requested to cause copies of this joint resolution to be immediately forwarded to the President of the United States, and to each of our Senators and Representatives in Congress.

Approved, February 16. 1852.

## CHAPTER CIII.

An Act to amend the Statute of Limitations, approved February 5th, 1841.

Section 1. Be it enacted by the Legislature of the State of Texas, That all actions founded upon any account other than open accounts concerning the trade of merchandize between merchant and merchant, their factors and servants, shall be commenced within two years next after the cause of such action shall have accrued, and not afterwards.

Sec. 2. That in case of the death of any person against whom there may be cause of action, the statute of limitation shall cease to run against such cause of action until twelve months after such death, unless an administrator or executor shall have sooner qualified according to law upon such deceased person's estate; then and in that case, the said statute of limitation shall only cease to run until such qualification.

Sec. 3. That in case of the death of any person in whose favor there may be cause of action, the statute of limitation shall cease to run against such cause of action until twelve months after such death, unless an administrator or executor shall have sooner qualified according to law upon such deceased person's estate; then and in that case the said statute of limitation shall only cease to run until such qualification.

Sec. 4. That no demand against any person who shall hereafter remove to this State, incurred prior to his removal, shall be barred by the statute of limitation of this State, until he shall have resided in this State for the space of twelve months; provided, that nothing in this section shall be construed to affect the thirteenth section of an act of limitation, approved February 5th, 1841.

Sec. 5. That the statute of limitation of this State shall not be made available to any person in any suit in any of the Courts of this State, unless it be specially set forth as a defence in their answer.

Sec. 6. That the third section of the act of limitation, approved February 5th, 1841, be, and the same is hereby repealed.

Approved, February 16, 1852.

CHAPTER CIV.

An Act concerning Juries.

Section 1. Be it enacted by the Legislature of the State of Texas, That no person who shall have served for more than a single day as a juror at one term of the District Court, shall be compelled to serve as a juror for more than a single day at the next term of such Court; provided, that this section shall not apply to jurors summoned on a special venire, unless they shall have actually served on the trial of the cause, for which they shall have been summoned; and, provided, further, that this section shall not apply to counties in which there shall not be at the time, two hundred inhabitants liable to do jury duty.

Sec. 2. In counties where the term of the District Court shall not exceed one week, grand jurors shall not receive pay for more than three days; in counties where the term of said Court shall not exceed two weeks, grand jurors shall not receive pay for more than six days; and in counties where the term of said Court shall exceed two weeks, grand jurors shall not receive pay for more than eight days.

Sec. 3. It shall be the duty of the Clerk of the District Court, within twenty days after the adjournment of every term of said Court, to make a report under his hand and official seal to the County Court, to be filed in the office of the Clerk of said County Court, stating the number of certificates issued by him to jurors, for services at such term, the amount of each, and to whom issued, which statement shall be entered of record in a separate book, to be provided by the Clerk for that purpose.

Sec. 4. Certificates which have been heretofore, or shall hereafter be issued to jurors, under the provisions of the tenth section of the act of February, A. D. 1850, entitled "an act to provide for the payment of grand and petit jurors," shall be receivable for all county taxes in the county in which such certificates have been or shall be issued.

Sec. 5. All such certificates which shall be received by Assessors and Collectors for county taxes, shall be delivered up to the respective County Courts to be cancelled, and at the same time the Assessors and Collectors shall file a statement under oath of the certificates so delivered up.

Sec. 6. The pay of jurors hereafter shall one dollar and a half per day, instead of one dollar and a quarter as heretofore.

Sec. 7. No more than one jury fee shall be exacted in any cause.

Sec. 8. The provisions of the act of February, A. D. 1850, entitled "an act to provide for the payment of grand and petit jurors," shall apply to the provisions of this act, so far as they may be applicable.

Sec. 9. This act shall be in force from its passage.

Approved, February 16, 1852.

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## CHAPTER CV.

An Act supplementary to an act providing for the liquidation and payment of the Public Debt of the late Republic of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That in all cases where a certificate of public debt embraces the character of liabilities included in articles third, fourth, ninth, tenth, fourteenth, fifteenth and sixteenth of the above named act, for which provisions are made for the immediate payment, and the character of liabilities included in articles first, second, fifth, sixth, seventh, eighth, eleventh, twelfth, thirteenth of the above named act, to the payment of which a contingency or proviso is attached, it shall be, and is hereby made the duty of the Auditor and Comptroller to cancel said certificates and issue other certificates for each class of liability contained in the cancelled certificate.

Sec. 2. That before payment is made by the Treasurer upon any certificate of public debt, it shall be the duty of the Auditor and Comptroller to certify that said certificate is correct and genuine.

Sec. 3. That said certificates shall be paid to the party in whose name they are drawn, by simple endorsement, upon his personal application, or to his assignee or agent, by endorsement, before any of the Judges of the Supreme or District Courts of the State, any duly commissioned Notary Public, or other officer of the State using seal, or any regularly authorized commissioner for the State of Texas in any of the States of the Union.



Sec. 4. That the transfer of any certificate of public debt of this State may be proved when there are no subscribing witnesses, by two witnesses swearing to the signature of the assignor before any officer authorized to take proof of deeds for record.

Sec. 5. That the releases required to be filed by the act to which this is a supplement, is not intended to apply to the second class claims provided for therein; that this act take effect from its passage.

Approved, February 16, 1852.

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#### CHAPTER CVI.

An Act authorizing the issuance of Patents to Settlers in Castro's Colony, whose claims may have been located in two Surveys.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized to issue two patents to settlers in Castro's colony whose claims may have been located in two surveys; provided, this act shall only apply to surveys already made, and shall not give validity to any survey not otherwise valid.

Sec. 2. This act take effect from its passage.

Approved, February 16, 1852.

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#### CHAPTER CVII.

An Act providing for the sale of one million of the Bonds of the United States, being a part of the indemnity received for the sale of a portion of the North-western Territory of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That it shall be the duty of the Comptroller of the State of Texas to publish for proposals for the sale of one million of

the bonds of the United States, or so much thereof as he may think proper in the following manner, to-wit: In some newspaper published in the city of Austin, Texas, for at least thirty days, and in at least one newspaper published in the city of Washington, D. C.; one newspaper in the city of New Orleans, and one newspaper published in the city of New York, for the space of twenty days. Said proposals shall be first, for the sale of said bonds deliverable at the city of Austin, the proceeds thereof deliverable at the same place; second, deliverable at the city of Washington, D. C., the proceeds thereof deliverable at the same place; third, deliverable at the city of New Orleans, the proceeds thereof deliverable at the same place; provided, that bids may be received and accepted in sums not exceeding the amount of one hundred thousand dollars of the bonds.

Sec. 2. That the bids for said bonds shall be required to be forwarded to the Comptroller at his office in the city of Austin, and shall be opened at the expiration of the time given for receiving said proposals, in the presence of the Governor, the Commissioner of the General Land Office, the Treasurer and Comptroller of the State, who shall after due examination, and deliberation, accept such bid or bids as may in their opinion best subserve the interests of the State; always provided, said bonds shall not be sold at less than their face value and interest due thereon at the time of the sale at the Treasury, and the proceeds of the bonds thus sold shall be placed in the Treasury, subject to appropriations heretofore made for the payment of the public debt of the late Republic of Texas.

Sec. 3. That this act shall take effect and be in force from and after its passage.

Approved, February 16, 1852.

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## CHAPTER CVIII.

**An Act supplemental to an act to define the time of holding the District Courts in the several Districts therein named, approved February, 1852.**

Section 1. Be it enacted by the Legislature of the State of Texas, That the first section of the act to which this is a supplement, shall be amended so as to read as follows: That the

Fourth Judicial District shall be composed of the counties of Refugio, San Patricio, Nueces, Medina, Uvalde, Gillespie and Bexar, and the District Courts shall be held as follows:

In Refugio county on the first Mondays of March and September, and may continue in session one week.

In San Patricio county on the second Mondays of March and September, and may continue in session one week.

In Nueces county on the third Mondays in March and September, and may continue in session two weeks.

In Medina county on the sixth Mondays after the first Mondays of March and September, and may continue in session one week.

In Uvalde county on the seventh Mondays after the first Mondays of March and September, and may continue in session one week.

In Gillespie county on the eight Mondays [after the first Mondays] of March and September, and may continue in session one week.

In Bexar county on the ninth Mondays after the first Mondays of March and September, and may continue in session until the business shall have been disposed of; and all process returnable to the first terms under the law previous to the passage of the act to which this is a supplement, shall be returned to the first terms herein named in the respective counties, and parties, jurors and witnesses shall appear, and business be done in the latter terms as would have been legal and proper in the former, and this act shall be in force from and after its passage.

Approved, February 16, 1852.

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## CHAPTER CIX.

An Act to define the boundaries of the Counties of Jasper and Newton.

Section 1. Be it enacted by the Legislature of the State of Texas, That the boundary line between the counties of Jasper and Newton be, and the same is hereby established as follows: Commencing at the south-west corner of survey number one, in the name of Jasper Harding on the southern line of the Jasper land district; thence northwardly to the eastern corner of

George B. Brownrigg's labor; thence northwardly to the northeast corner of Thomas E. Heninton's six hundred and forty acre survey, and thence in a northwardly and direct line to McKinis' old place on the Sabine county line.

Sec. 2. That so much of an act to create the county of Newton, approved April 22d, A. D. 1846, as conflicts with the provisions of this act be, and the same is hereby repealed, and that this act be in force from and after its passage.

Approved, February 16, 1852.

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## CHAPTER CX.

An Act to create the Counties of Cameron, Hidalgo, Starr, Webb, Presidio and El Paso, into separate Land Districts.

Section 1. Be it enacted by the Legislature of the State of Texas, That the territory embraced within the limits of Cameron county shall be, and is hereby constituted a separate land district, to be called the District of Cameron; and that the territory embraced within the limits of the county of Hidalgo is hereby constituted a land district, to be called the district of Hidalgo; and that the territory embraced within the limits of the county of Starr is hereby constituted a land district, to be called the district of Starr; and that the territory embraced within the limits of the county of Webb is hereby constituted a land district, to be called the district of Webb; and that the territory embraced within the limits of Presidio and El Paso is hereby constituted a land district, to be called the district of El Paso.

Sec. 2. That there shall be elected by the qualified electors of each land district created by this act, on the day of the first general election of county officers in this State, one District Surveyor for each land district named and created in this act, whose term of office shall be two years from the date of his election, who shall qualify and discharge the duties of the said office in accordance with the law now in force concerning district surveyors of other districts, and be subject to the same penalties for a violation thereof; provided, that the Commissioner of the General Land Office shall not be authorized or required to receive into the Land office any map from either of said

land districts created by this act, until the meanders of the Rio Grande shall have been run and noted, and not until the lines between the several counties named in this act shall have been run, marked and noted as far back from the Rio Grande as surveys shall have been made.

Sec. 3. That the district surveyor of the district of Cameron shall keep his office at Brownsville, and the district surveyor of the district of Hidalgo shall keep his office at Edinburgh; and the district surveyor of the district of Starr shall keep his office at Rio Grade City; and the district surveyor of the district of Webb shall keep his office at the town of Laredo; and the district surveyor of the district of Presidio and El Paso shall keep his office at San Elizario.

Sec. 4. That this act take effect from and after its passage.

Approved, February 16, 1852.

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## CHAPTER CXI.

An Act to make an appropriation to pay A. H. Stafford for Capturing an escaped Convict, and conveying him to the Penitentiary.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of two hundred dollars is hereby appropriated out of any money in the Treasury, not otherwise appropriated, to pay A. H. Stafford for capturing the convict Peter Rogers, and conveying said convict to the Penitentiary; and the Comptroller is hereby required to issue his warrant on the Treasury for said amount in favor of said Stafford.

Sec. 2. This act shall be in force from and after its passage.

Approved, February 16, 1852.

## CHAPTER CXII.

An Act supplementary to and amending an act for the relief of citizens of Mercer's Colony, of date February 2, 1850.

Section 1. Be it enacted by the Legislature of the State of Texas, That section eight of the above recited act be so amended that it shall only be necessary for the colonists applying for lands, to prove that they were resident citizens of said colony January 29, 1849, but in all other respects they shall fully comply with the provisions of said eighth section of said act.

Sec. 2. That the proof required by the first section of this act shall be made before the District Court of the county in which the party resided January 29, 1849; and it shall be the duty of the District Court to hear and determine, and award or refuse certificates to the parties applying under the provisions of this act, and the act to which this act is supplementary, in the same manner as the Commissioner appointed under said act might or should have done under the same.

Sec. 3. That no petition shall be required, and it shall only be necessary for the Clerk of said Court, upon the application of the party desiring to avail himself of the provisions of this act, to enter the name of the applicant on his docket, and the said application shall be heard in its order as other cases upon the docket, unless the Court shall appoint some particular day of the term for hearing the same.

Sec. 4. That the certificates for the claims established under this act, shall be issued by the Clerk, and be countersigned by the Judge of the Court issuing the same, and of the issues of said certificates the Clerk shall make monthly returns to the Commissioner of the General Land Office; and in no case shall the Clerk's fees be more than three dollars, and he shall be entitled to said fees from the applicant, should he fail or succeed in his application.

Sec. 5. That the provisions of the act for the relief of the citizens of Mercer's colony of effect March 23, 1850, shall apply and be of force in regard to all rights sought to be established, and all certificates issued under the provisions of this act, except in the amendment provided for by the first section of this act; provided, not more than twenty certificates shall be proven up.

Sec. 6. That this act take effect from and after its passage.

Approved, February 16, 1852.

CHAPTER CXIII.

**An Act supplementary to an act to authorize the Commissioner of the General Land Office to issue Patents on Certificates issued by the Board of Land Commissioners of Robertson County, approved 5th February, 1850.**

Section 1. Be it enacted by the Legislature of the State of Texas, That it shall be the duty of the County Clerk of Robertson county to transmit at the earliest time possible, to the Commissioner of the General Land Office, at the city of Austin, all of the original affidavits or oaths, records, papers, books, and other evidences of the issuance of headright certificates by the board of land Commissioners of Robertson county, prior to the 13th day of February, 1846, certifying to the genuineness and authenticity of the same under his hand and seal of office, in such manner as shall be deemed sufficient by the said Commissioner. It shall further be the duty of said Clerk of Robertson county to retain full and complete record transcripts, to be entered in a bound book, of all the above named oaths, papers, records and evidences above named of the proceedings had before and by the board of land Commissioners of Robertson county, regarding the issuing of headright land certificates, duly certifying at the end of said record transcripts to the correctness of the same, which transcript record may be read in evidence to the same extent to which copies of other records are admissible, the expenses of which copies and transcripts shall be paid by the County Court of Robertson county; provided, the sum shall not exceed fifteen cents per hundred words for each hundred words, inclusive of the certificates thereto made; provided, further, that said County Court shall examine, compare and certify to the correctness of said transcript record of said testimony and evidences.

Sec. 2. That when application shall be made for patents by virtue of any certificate or certificates issued by the board of land Commissioners of Robertson county, where the name of the party to whom the certificate was issued shall appear upon the transcript of the original oaths, records and other evidences of the issuing of land certificates by the board of land Commissioners in and for Robertson county, transmitted to the General Land Office under the provisions of this act, and where the quantity of land does not appear to be entered of record, or where the number and date of the certificate or certificates are

not a matter of record, the applicant for the patent by virtue of any certificate issued in the aforesaid county, shall be entitled to the same in the same manner as if said certificate or certificates had been regularly reported by the Clerk of the County Court for Robertson county as the law directs, and should any doubt arise as to the validity of any certificate purporting to have been issued by the board of land Commissioners for Robertson county, it shall be the duty of the Commissioner of the General Land Office to require the party applying for a patent by virtue of any certificate issued in the aforesaid county, to procure satisfactory evidence of the genuineness of said certificate, which said evidence shall be of such a nature and character, as may in the judgment of said Commissioner, be sufficient to establish said certificate to be a legal and genuine certificate, and that the party to whom said certificate was originally granted, was in truth and fact justly entitled to the quantity of land specified in said certificate; upon the production of said evidence it shall be the duty of the Commissioner of the General Land Office to issue patents upon said certificate or certificates as in other cases; provided, however, that the provisions of this act shall not extend to any certificate which was not recommended as a genuine certificate by the travelling board of land Commissioners for Robertson county.

Sec. 3. That this act shall take effect from and after its passage.

Approved, February 16, 1852.

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## CHAPTER CXIV.

### Joint Resolution.

Resolved by the Legislature of the State of Texas, That our Senators be instructed, and our Representatives in Congress be requested to procure by the United States, the running and establishing of the boundary lines between the State of Texas and the territories of the United States.

Be it further resolved, That the Governor of this State is hereby authorized to appoint a commissioner to act in conjunction with such commissioners as shall be appointed by the United States to run said boundary lines, whenever such Commissioners are appointed by the United States.

Approved, February 16, 1852.



CHAPTER CXV.

An Act to validate certain Records of Marriage Licenses.

Section 1. Be it enacted by the Legislature of the State of Texas, That in all cases where marriage licenses have been issued by the Clerks of the County Courts, and the record has been kept by making an abstract of the names of the parties and date of the licenses, instead of a full copy of such licenses, such abstract records and licenses so issued, shall be deemed and held as valid in law, to all intents and purposes, as if such licenses had been recorded in full.

Sec. 2. This act shall take effect from its passage.

Approved, February 16, 1852.

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CHAPTER CXVI.

An Act supplementary to an act to establish a State Penitentiary, passed 13th March, 1848.

Section 1. Be it enacted by the Legislature of the State of Texas, That the directors shall as soon as they are informed of the passage of this act, appoint some suitable person as purchasing, selling and disbursing agent, who shall give bond in the sum of twenty thousand dollars for the faithful performance of the duties of his office, with at least two good and sufficient securities to be approved by the Directors. The agent shall receive from time to time, the moneys appropriated for the support of the Penitentiary; provided, that he shall not receive in any one quarter of the year, more than one fourth the amount appropriated for the annual support of the Penitentiary. He shall, upon the order of the Superintendent, approved by any two Directors, purchase the necessary subsistence and clothing of the convicts, and also such materials as may be necessary for building or manufacturing purposes, except such as can be wrought, made or manufactured by the convicts in the Penitentiary. He shall keep in a well bound book, an account current, specifying the amount of moneys received by him from appropriations, with each particular item of disbursement, for which he shall take receipts. He shall, in the same book, keep an account of each article by him sold, with the

price for which the same was sold, which book shall, at all times, be open to the Superintendent, Directors, and such citizens as may desire to examine the same. He shall annually make out, on or before the first day of November, a transcript from his book of all his disbursements, sales and purchases for the preceding year, and submit the same with his vouchers to the Superintendent and Directors, who shall examine and carefully compare the transcript with the books of the Clerk, and if found correct, they shall transmit the same, certified under their hands, to the Governor of the State, who shall lay the same before the Legislature at each regular session thereof within ten days after their organization.

Sec. 2. A majority of the Directors, upon the detection of fraud, negligence or incapacity in the Clerk to perform the duties of his office, may remove him from office, and appoint a successor, who shall demand and receive all the books, moneys and other property, pertaining to the office of his predecessor.

Sec. 3. The Clerk shall receive an annual salary of six hundred dollars, payable quarterly; and that this act take effect from its passage.

Approved, February 16, 1852.

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## CHAPTER CXVII.

An Act supplementary to an act, entitled "an act to organize Justices Courts and to define the powers and jurisdiction of the same," approved 20th March, A. D. 1848.

Section 1. Be it enacted by the Legislature of the State of Texas, That should the office of Justice of the Peace, within any county of the State of Texas, become vacant by death, resignation or otherwise, it shall be lawful for any Justice of the Peace, within such county, to proceed to try and dispose of all such unfinished business as may be on the docket of such Justice who may have vacated his office as aforesaid, until a successor shall have been elected and qualified.

Sec. 2. That if from sickness, absence from the county, or from any other cause, not amounting to a vacation of his office, any Justice of the Peace shall fail to hold a regular term of his Court, then and in that case, any other Justice of the Peace

within the same county shall be, and is hereby authorized to preside in the place and stead of such sick or absent Justice, and to discharge, perform and transact all such business as may be necessary during such absence.

Sec. 3. That if from any cause whatever, the regular term of a Justice's Court should not be held at the time fixed by law, the business pending on the Justice's docket shall stand continued until the next regular term thereof; and all business not disposed of at a regular term of such Court shall likewise stand continued until the next regular term thereof.

Sec. 4. That when any Justice of the Peace cannot dispose of all the business on his docket on the regular days of holding his Courts, he shall be, and is hereby authorized to adjourn over and continue his Court from day to day until the business of each term is fully disposed of, and he is further authorized to adjourn any cause on his docket for trial to a particular day by agreement of parties.

Approved, February 16, 1852.

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## CHAPTER CXVIII.

### Joint Resolution concerning Indian Boundaries.

Resolved by the Legislature of the State of Texas, That the Governor be authorized to conduct negotiations with the Executive authority of the United States concerning an Indian territory in the northern part of the State for the use of Indians who were of the State according to its present limits at the date of annexation, and also concerning other bounds for some small tribes; and that in such negotiations the following particulars be observed: First—the sovereignty, domain and contracts of the State shall be respected. Second—private rights shall be regarded, so that if interfered with, just compensation shall be made therefor. Third—the terms that may be stipulated shall be subject to ratification or rejection by the Legislature.

Approved, February 16, 1852.

## CHAPTER CXIX.

An Act relinquishing the title of the State to Lots on Galveston Island in the possession of actual settlers, who purchased under the patent issued to Levi Jones and Edward Hall.

Section 1. Be it enacted by the Legislature of the State of Texas, That the State of Texas hereby releases and relinquishes forever, all of her title to such lots on Galveston Island as are now in the actual possession and occupation of persons who purchased under the patent issued by the Republic of Texas to Levi Jones and Edward Hall, and vests the title to such of said lots in such persons as are now in the actual possession and occupation of such lots, by virtue of their said purchase; provided, that the benefits of this act shall not be construed to enure to the benefit of any larger tract than twenty acres, and only to titles which have been recorded prior to 1st December, 1851, by virtue of their said purchase.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved, February 16, 1852.



## STATE OF TEXAS.

I, THOMAS H. DUVAL, Secretary of State of the State of Texas, certify that the Fourth Legislature of said State commenced its session at the City of Austin, on Monday, the third day of November, in the year one thousand eight hundred and fifty-one, and adjourned on Monday, the sixteenth day of February, in the year one thousand eight hundred and fifty-two.

And I further certify, that the Acts and Joint Resolutions contained in this Volume, are true copies, taken from the original rolls deposited in the Department of State, with which they have been carefully compared.

Given under my hand and Official Seal, at the City of Austin,  
the thirty-first day of March, in the year one thousand  
[L. s.] eight hundred and fifty-two.

THOMAS H. DUVAL.

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**SPECIAL LAWS**

**OF**

**THE FOURTH LEGISLATURE**

**OF**

**THE STATE OF TEXAS**

**VOLUME IV.**

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**PUBLISHED BY AUTHORITY.**

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**AUSTIN.**  
**1852**



VOLUME IV—PART II.

## SPECIAL LAWS.

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### CHAPTER I.

#### An Act to Incorporate the Jasper Collegiate Institute.

Section 1. Be it enacted by the Legislature of the State of Texas, That J. T. Armstrong, William Allen, Fayben Adams, John Blewitt, R. C. Doom, Z. Williams Eddy, R. C. McFarlane, John H. McRea, William H. Neyland, William S. Neyland and Seymour White be, and they are hereby incorporated a body politic, under the name and style of "the Trustees of the Jasper Collegiate Institute," capable in law of suing and being sued, of pleading and being impleaded; of holding property, real, personal and mixed; of selling and conveying the same at pleasure; of having a common seal, and of doing and performing whatsoever else may be proper and necessary to be done for the advancement of said Institution, not contrary to the laws and constitution of this State.

Soc. 2. That this charter and privilege shall extend to the said Trustees and their successors in office so long as they confine the operations of the same, and the benefits thereof, to the promotion of useful knowledge to the young and the advancement of the sciences; and the said Institution shall be accessible alike to all without regard to religious opinions.

Sec. 3. That the Trustees shall have full power to enact such by-laws, rules and regulations for the government of said Institution as may seem to them necessary for that object.

Sec. 4. That the Institution herein created shall be located in the town of Jasper; and that this act take effect and be in force from and after its passage.

Approved, November 24, 1851.

## CHAPTER II.

## An Act to incorporate the Town of Jasper.

Section 1. Be it enacted by the Legislature of the State of Texas, That the citizens of the town of Jasper in Jasper county, be, and they are hereby declared a body politic and corporate, under the name and style of the corporation of the town of Jasper, who shall have the power of suing and being sued, of pleading and being impleaded, and to hold property, real and personal, within the limits of said corporation, and at their pleasure to dispose of the same.

Sec. 2. That it shall be the duty of the Chief Justice of the county to order an election to be holden as early as practicable after the passage of this act, upon giving ten days notice thereof, for the election of one Mayor and five Aldermen, a collector or constable, a treasurer and secretary, who shall hold their offices for the term of one year from the time of their election. In case a vacancy occurs by death, resignation or otherwise, the vacancy for the unexpired term shall be filled by a new election, as follows: In case the vacancy in the office of Mayor, then the election to be conducted by a quorum of the Board of Aldermen. But in case of vacancy in the Board of Aldermen, Collector, Treasurer or Secretary, then the election shall be conducted by the Mayor, and all persons residing within the corporation shall be entitled to a vote for the above named officers, who may be entitled to a vote for members of the Legislature.

Sec. 3. That the Mayor and two-thirds of the Board of Aldermen shall constitute a Board to transact business.

Sec. 4. That the Collector, Treasurer and Secretary, shall give bond in such sum, and with such securities as shall be approved by the Mayor and Board of Aldermen, and that all officers elected by virtue of this act, before entering upon the duties of their office, shall take and subscribe an oath for the faithful discharge of the duties of their respective offices.

Sec. 5. That it shall be the duty of the Mayor to cause an election to be held annually, at least ten days previous to the expiration of his term of office, for all the officers mentioned and required to be elected by this act, who shall enter upon the duties of their offices respectively, upon the expiration of the term of their predecessors.

Sec. 6. That the Mayor shall have jurisdiction and exercise the powers now conferred by law on Justices of the Peace in criminal cases, over all offences committed against the ordinan-

ces and decrees of the Mayor and Aldermen within the limits of said corporation.

Sec. 7. That the Mayor and Aldermen shall have power to pass such ordinances and decrees as they may think necessary; the establishment of schools, and the support of education; for the regulation of the police and the preservation of good order; to prescribe penalties; to levy taxes for the removal of nuisances, keeping the streets in order and such other purposes as the Board may deem necessary and proper within the limits of said corporation; provided, that such ordinances and decrees shall not conflict with the laws and constitution of this State.

Sec. 8. That the limits of said corporation shall embrace all that tract of land originally included within the limits and plat of said town; and that this act take effect from and after its passage.

Approved, November 24, 1851.

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### CHAPTER III.

An Act to change the name of Mary Angeline Middleton, to that of Mary Angeline Gill.

Section 1. Be it enacted by the Legislature of the State of Texas, That the name of Mary Angeline Middleton, daughter of John Middleton and Angeline Middleton be, and the same is hereby changed to that of Mary Angeline Gill.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved, November 24, 1851.

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### CHAPTER IV.

An Act to Incorporate the People's Line of Gulf Steamers.

Section 1. Be it enacted by the Legislature of the State of Texas, That John Ayer, Z. K. Fulton, John D. Groesbeeck, F. L. Paschal, J. M. Devine, William Vance and Thomas H. Jones, and their associates and successors be, and they are hereby constituted a body corporate and politic, for and during the term of seven years, by the name and style of the "People's Line of Gulf Steamers," and under that name and style, shall

be capable in law of suing and being sued, of pleading and being impleaded, and competent to contract for, buy and receive all kinds of property that may be necessary for the purpose for which said corporation is created; to have a common seal, to alter and change the same at pleasure; to bind themselves with or without a seal; and to make all necessary by-laws, rules and regulations, not conflicting with the provisions of this act, nor with the constitution and laws of the State.

Sec. 2. That the capital stock of said company shall not exceed two hundred thousand dollars, and shall be divided into shares of one hundred dollars each; each share entitling the owner thereof to one vote in person or by proxy, at all the meetings of the company; and the shares shall be deemed personal estate, and shall be transferable by any conveyance in writing, recorded either by the Treasurer in books kept by him for that purpose, at the general office, or by any other officer duly authorized by the Directors, in books kept by him at such other place as the Directors may appoint; such transfers as are recorded at any other place, being within thirty days communicated to the Treasurer, and by him entered on his book.

Sec. 3. That said company be, and is hereby invested with the right of owning, running, and maintaining a line of two or more steam packets or steam ships, from New Orleans by way of Galveston and the ports on the west end of Matagorda Bay to the town of Port Lavaca; and also the right to ask, demand and receive such amount for the transportation of passengers and freight on said steamships, as may be regulated and fixed by the Board of Directors, specifying the amount per ton burthen, and per barrel or hundred pounds, or per head for live stock, or per thousand for lumber; provided, freights shall not exceed ten cents per cubic foot from New Orleans to Galveston, nor fifteen cents to Lavaca or any point on Matagorda Bay, for the usual measurement goods; nor more than ten dollars for passengers to Galveston and fifteen to Lavaca; provided, however, that should the said company at any time extend their trips to Aransas Pass or Corpus Christi, they shall not charge exceeding twenty dollars for each passenger, nor over twenty cents per foot for freight, with all other charges in the same proportion; and, provided, that should they hereafter freight to the Sabine Pass, the rates of freight or passage shall not exceed that to Galveston.

Sec. 4. That the immediate control and direction of the affairs of said company shall be vested in a board of not less than seven nor more than nine Directors, a majority of whom shall consti-

tute a quorum for the transaction of business, said directors to be elected annually by the stockholders. The first election shall be held at La Vaca, and at such time as a majority of the persons named in this act may determine: provided, that at least ten days notice, by letter or otherwise, be given to each and every stockholder, of the time and place of such election. No person shall be eligible to the office of Director unless he be the owner of at least three shares of the capital-stock of said company. The directors shall have power to fill any vacancy in their body arising from any cause. They shall have power to appoint a Clerk, Treasurer or any such other officers or agents, as they may deem necessary and require, and prescribe bonds for the faithful discharge of their duties. They may make all necessary rules and regulations for the holding of meetings, and all other lawful things they may deem proper for carrying out the provisions of this charter and business of the company. They shall keep or cause to be kept, records of all meetings of the directors and company, and accurate books and accounts of the receipts and expenditures of the company; and the books shall be open to the inspection of the stockholders.

Sec. 5. That if any subscriber shall fail to pay any amount due upon shares subscribed for by him, according to the terms of his subscription, the directors may, after twenty days public notice, sell at public auction the shares subscribed for by said delinquent, and transfer to the purchaser such shares. If the proceeds of the sale shall not be sufficient to pay the amount due with interest and charges, such delinquent shall be held liable to the company for the deficiency; and if the proceeds shall exceed the amount so due, with interest and charges, he shall receive the surplus.

Sec. 6. That the principal office for the transaction of the business of said company shall be at Lavaca, or at some point on Matagorda Bay; provided, that the directors may, from time to time, establish an office at New Orleans, Galveston, or such other point as they may deem necessary.

Sec. 7. The directors shall elect a President from their own body, whose duty it shall be to preside over all meetings of the directors, and to perform such other duties as may be prescribed to him in the by-laws.

Sec. 8. The persons named in this act, or a majority of them, shall have full power and authority to open books for subscriptions to the capital stock of said company at such time and at such places as they may deem proper, and to close the same at pleasure or when the full amount shall have been subscribed;

and they are hereby fully vested with authority for forming and organizing said company.

Sec. 9. That the directors when elected, shall proceed to call in the capital stock so subscribed, in such instalments as they shall deem proper; provided, that not more than fifty per cent. shall be called for in any one instalment; and, provided, nothing herein shall be so construed as to release those persons heretofore obligating themselves to subscribe stock, from paying in the manner stipulated.

Sec. 10. That said company shall have the power to borrow money on their bonds or notes, at such rates as the directors shall deem expedient; provided, however, that nothing in this act shall be construed to confer banking privileges of any kind, and the stock, certificates, bonds and notes of said company shall be transferrable only on the books of the company.

Sec. 11. If said company shall not be organized within six months from the passage of this act; and if at least two low pressure steamers be not placed on said line within one year after said organization, this charter shall be null and void.

Sec. 12. That this act take effect from and after its passage.

Approved, December 3, 1851.

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## CHAPTER V.

An Act to admit Joseph A. W. Everett, Samuel A. Wilson, Roger Q. Mills and Harman A. Perryman to practice law in the several Courts of this State.

Section 1. Be it enacted by the Legislature of the State of Texas, That Joseph A. W. Everett, Samuel A. Wilson, Roger Q. Mills and Harman A. Perryman be, and they are hereby admitted to practice law in all the Courts of this State; provided, that the said Joseph A. W. Everett, Samuel A. Wilson, Roger Q. Mills and Harman A. Perryman, after undergoing an examination as required by law, be deemed qualified for admission; and, provided, also, that the said Joseph A. W. Everett, Samuel A. Wilson, Roger Q. Mills and Harman A. Perryman shall not by reason of their minority, be exempt from liability upon their professional engagements.

Sec. 2. That this act take effect from and after its passage.

Approved, December 3, 1851.



## CHAPTER VI.

### An Act for the relief of Philip Evans.

Section 1. Be it enacted by the Legislature of the State of Texas, That Alfred Millard be, and he is hereby authorized and empowered to emancipate his boy Philip, alias Philip Evans, and the said Philip, in consideration of his services during the Texas revolution, and particularly at the battle of San Jacinto, is permitted to remain and reside permanently within this State.

Approved, December 3, 1851.

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## CHAPTER VII.

### An Act for the relief of John Powers.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized to issue to John Powers his headright certificate for three hundred and twenty acres of land.

Sec. 2. That said headright certificate of John Powers, may be located, surveyed and patented upon any public vacant lands.

Sec. 3. That this act take effect from and after its passage.

Approved, December 3, 1851.

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## CHAPTER VIII.

### An Act for the relief of Penelope Newsome, daughter and heir of Robert Conn, deceased.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be authorized and required to issue to Penelope Newsome, daughter and heir of Robert Conn, deceased, a certificate for two-thirds of a league and one labor of land, being the remainder of said Robert Conn's three-fourth league and labor headright, which may be located, surveyed and patented as other genuine land claims.

Sec. 2. That this act take effect from and after its passage.

Approved, December 3, 1851.

## CHAPTER IX.

An Act to permit Mary Madison to remain in the County of Galveston, in this State.

Section 1. Be it enacted by the Legislature of the State of Texas, That Mary Madison, a free woman of color, in consequence of her age, and the length of time that she has resided in the State, during which time she has demeaned herself with becoming propriety, and a strict observance of the laws, and also, in consequence of the services she has rendered as a nurse to the sick; shall be, and is hereby permitted to remain and reside within the limits of the county of Galveston, in this State; and that this act take effect and be in force from and after its passage.

Approved, December 3, 1851.

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CHAPTER X.

An Act authorizing the Treasurer to pay to John A. Greer, Guardian of J. A. Greer, Jr., any monies deposited by order of the County Court of Grimes County.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Treasurer of the State be, and he is hereby required to pay to John A. Greer, guardian of the minor John A. Greer, jr., only child and heir of Lavina Pinchback, formerly Lavina Greer, any monies deposited by order of the County Court of Grimes county, for the heirs of said estate of Lavina Pinchback, deceased.

Sec. 2. That this act take effect from and after its passage.

Approved, December 8, 1851.

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CHAPTER XI.

An Act making an appropriation to pay William Smith, Sheriff of Starr County, for taking three Convicts, and G. B. Black, Sheriff of Grimes county, for taking one Convict to the State Penitentiary.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of four hundred and ninety-four dollars and

eighty-five cents, be, and the same is hereby appropriated, and ordered to be paid out of any monies in the Treasury, not otherwise appropriated, to pay William Smith, Sheriff of Starr county, for conveyance of three convicts from the county seat of Starr county to the State Penitentiary, including expenses of guards, sustenance, etc.; provided, that the certificate of James Gillespie, Superintendent of the State Penitentiary, bearing date the 5th of November, 1851, for the sum of three hundred and twenty-eight dollars and twenty-one cents be, and is hereby cancelled; and that the sum of seventeen dollars and fifty-eight cents, be appropriated and paid in like manner to G. B. Black, Sheriff of Grimes county, for conveyance of one convict from the county seat of Grimes county to the Penitentiary, including expenses of guard, etc., and that the certificate of James Gillespie, Superintendent of the Penitentiary, bearing date September 22nd, 1851, for the above sum of seventeen dollars and fifty-eight cents, is hereby cancelled; and that this act take effect from its passage.

Approved, 9th December, 1851.

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## CHAPTER XII.

An Act to repeal all laws heretofore enacted, incorporating the town of San Augustine.

Section 1. Be it enacted by the Legislature of the State of Texas, That all laws heretofore enacted, incorporating the town of San Augustine be, and the same are hereby repealed; and this act shall be in full force from the first day of January, A. D. 1852.

Approved, December 8, 1851.

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## CHAPTER XIII.

An Act granting certain powers to the Corporation of Galveston City.

Section 1. Be it enacted by the Legislature of the State of Texas, That the corporation of the City of Galveston shall have the power and privilege of opening all the streets run-

ning North and South on the Bay side of said city to the channel; and shall also have the power and right to erect wharves at the end of such streets as they may deem proper.

Sec. 2. That the said corporation shall have power to fix the rates of wharfage and to collect the same, on all goods, wares and merchandize, landed upon said wharf or wharves; to bring suit to recover the same before any Court having jurisdiction of the amount in controversy.

Sec. 3. That the said corporation shall have the power to fill such portions of the flat covered by water, between ordinary low tide water mark, and the channel on the Bay side, as said corporation may deem necessary for public purposes.

Sec. 4. That the State of Texas hereby relinquishes and releases unto the corporation of the city of Galveston, all the rights and privileges above mentioned; provided, that nothing in the third and fourth sections of this act shall be construed to affect any legal title to wharf privileges held by persons in said City; and that this act take effect and be in force from and after its passage.

Approved, December 8, 1851.

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#### CHAPTER XIV.

An Act to Incorporate Milam Masonic Female Institute, in the County of Bowie.

Section 1. Be it enacted by the Legislature of the State of Texas, That the female institution of learning, situate at or near the town of Boston, in the county of Bowie be, and the same is hereby incorporated with the name and style of the Milam Masonic Female Institute, under the control and supervision of the Master and Wardens of Boston Lodge No. 69, and their successors in office.

Sec. 2. That the said Master and Wardens of Boston Lodge, No. 69, and their successors in office be, and are hereby constituted and appointed Trustees of said institution; and shall be able and capable in law to have and receive, to hold and use all lands and tenements, moneys or other property of any description belonging to, hereinafter descending or acquired, for the use and benefit of said Milam Masonic Female Institute; to sue and be sued; to do and perform any and all other acts necessary to the protection, maintenance and advancement of

the rights and interests of said institution, the same as individuals may of right do in the management of their own private affairs.

Sec. 3. That the Master and Wardens, in conjunction with the brethren of said Lodge, have power to frame such ordinances and by laws as shall appear to them necessary for the good government of said institution; provided, the same be not repugnant to the laws and constitution of this State; to employ competent officers and instructors, and fix the salaries of the same, with the power of removal for neglect of duty or misconduct in office.

Sec. 4. That the Trustees of said institution, by and with the recommendation or consent of the preceptors, shall have full power to grant or confer such degree or degrees in the arts and sciences to any of the students of said institute thought worthy, as are usually granted or conferred in similar seminaries of learning; to give diplomas or certificates of the same, with adequate marks and designations to authenticate and perpetuate the memory of such degrees and graduations.

Approved, December 8, 1851.

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#### CHAPTER XV.

An Act for the relief of W. D. Thompson & Co., assignees of John Simonds.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Adjutant General be, and he is hereby authorized to issue to W. D. Thompson & Co., assignees of John Simonds, a land warrant for three hundred and twenty acres of land, upon their filing in his office a regularly authenticated chain of transfer from said Simonds.

Sec. 2. That this act take effect from and after its passage.

Approved, December 13th, 1851.

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#### CHAPTER XVI.

An Act granting Thomas Cevallos permission to remain in the County of Bexar in this State.

Section 1. Be it enacted by the Legislature of the State of Texas, That in consideration of Thomas Cevallos, a free man

of color, having resided in the State of Texas since the year 1835, and having been wounded in the defence of the country, the said Thomas is hereby permitted to remain a resident of the county of Bexar in this State.

Sec. 2. That this act take effect from and after its passage.

Approved, December 13, 1851.

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## CHAPTER XVII.

### An Act for the relief of the heirs of Edward B. Wood.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office issue to the heirs of Edward B. Wood, a certificate for one-third of a league of land as the headright of said Wood, and that the said certificate may be located upon any of the unappropriated lands of the State, and that the Government dues thereon shall be paid as provided for by law, like other headright claims of the first class; provided, said land shall be surveyed and patented for the sole benefit of the heirs of the said Edward B. Wood, and no other person; and that this act take effect from and after its passage.

Approved, December 17, 1851.

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## CHAPTER XVIII.

### An Act for the relief of William M. Christy.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby required to issue to William M. Christy, a colony certificate for six hundred and forty acres of land, which shall be located and patented according to an act for the relief of the citizens of Mercer's colony, approved February 2d, 1850; and that this act take effect and be in force from and after its passage.

Approved, December 17, 1851.

CHAPTER XIX.

An Act for the relief of James M. Day.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to James M. Day of the county of Guadalupe, a certificate for one league of land, to be located on any vacant and unappropriated domain of the State of Texas; and upon the return of said certificate with the duly authenticated field notes of any lawful Surveyor for the amount of land mentioned in this act, it shall be the duty of the Commissioner of the General Land Office to issue a patent for the same free of all expense.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved, December 16, 1851.

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CHAPTER XX.

An Act for the relief of Casimiro Garcia.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Adjutant General be, and he is hereby authorized and required to issue to Casimiro Garcia a donation claim for six hundred and forty acres of land on account of the said Garcia being a prisoner at San Antonio in 1835, at the time of the taking of that place in December, 1835.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved, December 17, 1851.

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CHAPTER XXI.

An Act to incorporate the Town of Quitman.

Section 1. Be it enacted by the Legislature of the State of Texas. That the citizens of the town of Quitman be, and they are hereby declared a body corporate, under the name and style of the corporation of the town of Quitman, and by that name may sue and be sued, plead and be impleaded, and may hold and dispose of real and personal estate.

Sec. 2. That the limits of said corporation shall be one-half mile square, of which the Courthouse of the county of Wood shall be the center.

Sec. 3. That an election for Mayor, five Aldermen, a Treasurer, a Recorder and a Constable, shall be held as soon as practicable after the passage of this act, by the Chief Justice, or one of the Commissioners of Wood county, according to the laws governing elections generally; and annually thereafter, for a similar purpose, an election shall be conducted by the Mayor, or a majority of the Aldermen acting at the time of such election; and the persons elected shall continue in office for the term of one year, or until their successors are duly qualified.—And the annual election for Mayor and Aldermen shall be held at such place in the town of Quitman, as may be designated by the Board, for the convenience of the people.

Sec. 4. That whenever a vacancy shall occur for Mayor, a majority of the Aldermen acting, shall order and conduct an election to fill such vacancy; and the person so elected, shall hold his office till the next regular election, or until his successor be duly qualified; and in case of the death, resignation or removal of any Alderman, Treasurer or Constable, the Mayor shall order an election, under such rules and regulations as may be prescribed by the Board to fill such vacancy.

Sec. 5. That no person shall be eligible to the office of Mayor, Alderman, Treasurer or Constable, unless such person be a citizen of said town.

Sec. 6. That the Mayor shall be President of the Board of Aldermen; that three of the members of said Board shall constitute a quorum to transact business, and that said Board shall enact such by-laws for the government of said town, not inconsistent with the Constitution and laws of the State, as may be deemed proper, and may impose fines for the infraction or disobedience of the same, not exceeding twenty dollars for such offence.

Sec. 7. That the Board of Alderman shall have and exercise control over the public square and streets of said town, and may compel all free male citizens, (ministers of the Gospel excepted) over the age of seventeen years and under the age of forty-five years, to work on the same; provided, such person shall not be required to work more than six days in any one year, and shall be exempt from other road duty in said county; and the Board may impose such fines on defaulters as they may deem necessary, in which they shall be governed by the laws of this State regulating roads.



Sec. 8. That the Board of Alderman shall have power to levy a tax on all persons, and property, both real and personal in said town subject to taxation by the laws of the State; provided, that the tax on property shall not in any one year exceed one-half of one per cent., advalorem, on such property; and no tax shall be levied except by a vote of two-thirds of the members present, which shall be assessed and collected by the Constable, in the same manner as the State tax is collected.

Sec. 9. That the Board of Aldermen shall have power to appoint such additional officers, with the regulation of their duties and compensation, as may be necessary, and may require of them bond and security to the Mayor, in such sum as may be deemed necessary to compel the efficient discharge of such duties as may be assigned them.

Sec. 10. That all offences against the by-laws be presented before the Mayor, and be governed by the laws organizing Justices Courts; and the Constable shall execute and return all writs issued by the Mayor, in the same manner as is provided by the law defining the duties of Constables.

Sec. 11. That the Constable shall give bond and security, as required of other Constables, and shall have the same power, and be entitled to the same fees for similar services.

Sec. 12. That the Mayor of said town shall be entitled to such fees as may be allowed Justices of the Peace for similar services, together with such other compensation as may be allowed him by a majority of the Aldermen present at the time of such allowance.

Sec. 13. That the Aldermen be entitled to such compensation as may be allowed by a majority of the Board; provided, that in no case the sum shall exceed two dollars per day for each day they may be required to set as such Aldermen.

Sec. 14. That the Treasurer shall safely keep all the money of said incorporation—shall pay out the same on the order of the Board, and shall do such other duty as may be assigned him by the by-laws, and shall give bond and security, payable to the Mayor, in such sum as may be deemed proper, conditioned for the faithful performance of his duties, to be approved by the Board, and shall be allowed such compensation as may be specified by the Board of Aldermen.

Sec. 15. That the books and records of the corporation shall at all times be open for the examination of any citizen of said town.

Sec. 16. That this act take effect from and after its passage.

Approved December 18th, 1851.

## CHAPTER XXII.

An Act for the relief of the heirs of Haden Arnold, deceased

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office is hereby authorized and required to issue to the heirs of Haden Arnold, deceased, a patent on the field notes made by virtue of first class certificate, No. 452, issued by the Board of Land Commissioners of Nacogdoches county; provided, the survey has been made in conformity with the laws governing the same, and that all government dues are paid as is required of all first class certificates.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved December 16th, 1851.

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## CHAPTER XXIII.

An Act for the relief of the heirs of Geo. Hamilton, deceased.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office issue to the heirs of George Hamilton, deceased, an unconditional land certificate for six hundred and forty acres of land, the amount to which said Hamilton was entitled by virtue of conditional certificate No. 30, issued to him by the Board of Land Commissioners of Nacogdoches county, on the 26th day of April, A. D. 1838; and that this act take effect and be in force from and after its passage.

Approved December 16th, 1851.

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## CHAPTER XXIV.

An Act for the relief of the heirs of Sally Owens, deceased.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office of this State, issue to Mary and Catharine Owens, heirs of Sally Owens, deceased, a certificate for one league and one labor of land, which may be located and patented on the same terms

and in the same manner as other first class certificates, and that this act take effect and be in force from and after its passage.

Approved, December 17th, 1851.

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CHAPTER XXV.

An Act to incorporate the town of Anderson, in Grimes County.

Section 1. Be it enacted by the Legislature of the State of Texas, That the citizens of the town of Anderson, in Grimes county, be, and they are hereby declared a body politic, and corporate, under the name and style of the corporation of the town of Anderson, and by that name may sue and be sued, plead and be impleaded, and to hold and dispose of real and personal property; provided, such real property is situated within the limits of said corporation.

Sec. 2. That it shall be the duty of the citizens of said corporation, to elect a Mayor, five Aldermen, a Collector and Constable; and a Treasurer and Secretary shall be elected by said Aldermen from their own body; the Treasurer and Collector being required to give bond with security, to be approved by the presiding officer, for the faithful performance of their duties, and to make reports when required by the Mayor, or board of Aldermen; and the Mayor shall have power, when necessary, to suppress riots and disturbances, and to call out the citizens of said corporation for the purpose of restoring order.

Sec. 3. That the first election shall be held under the direction of the Chief Justice of said County, after having given ten days notice thereof, and annually afterwards under the direction of the Mayor, at least ten days before the expiration of his term of office; and that in case of death or resignation, the vacancy or vacancies shall be filled by new elections, to be ordered by the Mayor; and in case the office of Mayor shall be vacant, then the Aldermen shall elect one of their own body to act as Mayor until the next annual election.

Sec. 4. That no person shall be eligible to any office under the provisions of this charter, who is not a citizen of the State and a resident within the limits of the incorporation; nor shall any person have a right to vote for officers who is not a citizen, and resides within its limits.

Sec. 5. That the Mayor and board of Aldermen of said corporation shall have power to pass such rules and ordinances as may be necessary for the regulation of the police, and the preservation of order within the corporation limits; to levy taxes for the removal of nuisances, and keeping the streets in good order, and to prescribe penalties for the violation of the ordinances and by-laws of the corporation; provided, that in no case such penalties shall exceed one hundred dollars.

Sec. 6. That the limits of said corporation shall extend one half mile in every direction from the Courthouse on the public square of said town of Anderson.

Sec. 7. That the Mayor with a majority of said Aldermen, shall constitute a quorum for the transaction of business, and shall enact and enforce such rules and regulations as they may deem necessary for the government of said corporation; provided, the same do not conflict with the constitution and laws of this State.

Sec. 8. That this act take effect, and be in force from and after its passage.

Approved, December 18, 1851.

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## CHAPTER XXVI.

### An Act to amend an act to incorporate the Austin College.

Section 1. Be it enacted by the Legislature of the State of Texas, That any Trustee of the Austin College, who may find it inconvenient to attend any meeting of the board of Trustees, may, through his duly authorized agent, or proxy, transact any business pertaining to the management of the affairs of said College, and that all the lawful acts and doings of such agent or proxy in the premises aforesaid, shall be as good and valid to all intents and purposes, as though such Trustees had transacted the same in person, and that this act be in force from its passage.

Approved, December 16, 1851.

CHAPTER XXVII.

An Act to authorize David Hill to construct a bridge across the Sabine river.

Section 1. Be it enacted by the Legislature of the State of Texas, That David Hill be, and he is hereby authorized to build a bridge across the Sabine river, opposite Patton's Port, in Smith county, at any place where he may be the owner of the lands on either side of the said river; provided, that he shall pay, or cause to be paid to the owner or owners of the lands on the opposite side of said river, all such damages as he or they may sustain by the construction of said bridge, to be ascertained in the following manner, to-wit: 1st. The parties shall have the right to agree upon the damages sustained by the construction of the bridge aforesaid, if they can. 2nd. If the parties cannot agree as to the amount of damages, then it shall be lawful for the said Hill, or the owner of the lands on the opposite side of said river, or both, to make application to the County Court of the county in which such lands may be situated, for the appointment of three Commissioners to assess the damages sustained by the owner or owners of said land; and it shall be the duty of said County Court to appoint three Commissioners to assess the said damages, and the said Commissioners, or majority of them, shall make their report to the County Court in writing, under oath, which report shall be recorded in the office of the Clerk of the County Court, and upon the payment of the amount of damages assessed by the Commissioners, and all costs incurred by said appointment to the person or persons entitled to receive the same, by the said Hill, he shall have the right to construct the said bridge as aforesaid, and shall have the right to open a road from the same; provided further, that the said bridge shall not be built so as to obstruct or hinder the navigation of the said Sabine river.

Sec. 2. That the rates of toll to be charged and collected by the said Hill, shall be fixed and regulated by the County Court of Smith county, and the license tax shall be levied by the same court; provided, that the said Hill shall not be required to pay a license tax in but one county on said bridge.

Sec. 3. That the said Hill shall, in all respects, be governed by the laws of this State regulating roads, bridges and ferries, when the same shall not conflict with the provisions of this act.

Sec. 4. That the said Hill shall commence the building of said bridge within one year from the passage of this act, and complete the same within five years from the same, or in case of failure thereof, this act shall cease to have effect.

Sec. 5. That this act shall take effect, and be in force from and after its passage.

Approved, December 17, 1851.

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#### CHAPTER XXVIII.

An Act for the relief of the heirs of William Gibbs, deceased.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Board of Land Commissioners of Tyler county, take in and cancel the certificate for three hundred and twenty acres of land, issued by the Board of Land Commissioners of Liberty county to William Gibbs, on the 5th day of December, 1839, and upon the proof, now required by law, being made before them, that an unconditional certificate for six hundred and forty acres of land be issued by said board to the heirs of said William Gibbs, and that said certificate be located and surveyed as other second class certificates, and that this act take effect and be in force from and after its passage.

Approved, December 18th, 1851.

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#### CHAPTER XXIX.

An Act for the benefit of W. W. Wooten, assignee of David Lloyd.

Section 1. Be it enacted by the Legislature of the State of Texas, That the headright league and labor certificate, No. 655, issued by the board of Land Commissioners of Red River county, to David Lloyd, and conditionally recommended by the investigating board of Land Commissioners, together with the locations and surveys legally made by virtue thereof, be, and the same are hereby confirmed as other good and valid claims against the government; provided, said Lloyd has not previously received his quantum of land; and that this act take effect from and after its passage.

Approved, December 18, 1851.

CHAPTER XXX.

An Act to encourage the deepening of the Anahuac Pass at the mouth of Trinity river.

Section 1. Be it resolved by the Legislature of the State of Texas, That authority shall be, and hereby is given to William M. Spalding, of the county of Liberty, in said State, to deepen the Anahuac Pass, so called, at the mouth of the Trinity river, to remove from it all obstructions to its navigation, of whatever nature they may be, that now exist, or may hereafter be found in it, and with the earth taken from its bottom, to form embankments upon the sides of that part of it which has no banks at ordinary low water, being that part which extends from the shore, or edge of the marsh, across the bar into deep water, and to hold and control said embankment for his own use; provided, nothing in this act shall be so construed as to authorize the said Spalding to obstruct any of the natural, navigable outlets of the said Trinity river, or to occupy or interfere with the land on the banks of said Pass, without the consent of its owner or possessor.

Sec. 2. That the said William M. Spalding shall have power to levy, collect, and receive toll from all steamboats carrying freight through said Pass, at the rate of five cents a bale for cotton, five cents a head for cattle and horses, and two and a half cents a barrel, (reckoning the barrel as usual on steamboats) for all other freight, except wood and lumber, when he shall have obtained through said Pass a depth one foot greater than exists on the bar of any of the unimproved outlets of said Trinity river, and at the rate of ten cents a bale for cotton, ten cents a head for cattle and horses, and five cents a barrel for all other freights, except wood and lumber, when he shall have obtained through said Pass, a depth two feet greater than exists on the bar of any of the other Passes.

Sec. 3. That it shall be the duty of the captain of every steamboat going through the Anahuac Pass, after it shall have been deepened to the extent mentioned in section second, to furnish to the said William M. Spalding, when called on by him to do so, a correct statement of the amount of freight upon his boat, at any specified time when she went through said Pass, and to pay for the same at the rate of toll stated in section second; and in case of the refusal or neglect of the captain of any boat to render such statement of the amount of freight, and to

pay the toll for the same, such boat shall be considered indebted to the said Spalding to the amount of toll upon a full load, and shall be held liable to pay in the same manner as on indebtedness for labor or stores.

Sec. 4. That the rates of toll specified in this act shall be continued for the space of five years from the date of its passage, and that at the end of that time they shall be reduced to one-half of those rates; and that unless the said Spalding shall have obtained the one foot greater depth, mentioned in section second, within one year from the date of the passage of this act, and the two feet greater depth within two years of the same date, the powers and privileges granted to him by this act shall cease.

Sec. 5. That whatsoever is by this act granted, shall be and enure to the said William M. Spalding, his heirs and assigns for the term of twenty years, from and after the expiration of the two years mentioned in the preceding section; and whatever he is hereby authorized to do in person, may also be done by his agent or assigns.

Sec. 6. That this act take effect from and after its passage.

Approved, December 20, 1851.

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## CHAPTER XXXI.

### **An Act to incorporate the Town of Daingerfield.**

Section 1. Be it enacted by the Legislature of the State of Texas, That the citizens of the town of Daingerfield be, and they are hereby declared a body corporate by the name and style of the "corporation of the town of Daingerfield," and by that name may sue and be sued, plead and be impleaded, and may hold and dispose of real and personal estate.

Sec. 2. That the limits of said corporation shall be the present limits of the town of Daingerfield, as laid down in the plan of said town, extending from the public square six hundred yards South, six hundred yards North, four hundred and fifty yards East, and four hundred and fifty yards West.

Sec. 3. That an election for a Mayor, five aldermen, a Treasurer, Recorder and Constable, shall be held as soon as practicable after the passage of this act, by the justice of the peace in Precinct No. 9, class 1st, Titus county, according to the laws governing elections generally; and annually thereafter for a



similar purpose, an election shall be held and conducted by the Mayor, or a majority of the Aldermen acting at the time of such election, and the persons elected shall continue in office one year, and until their successors are duly qualified; and the annual election for Mayor and Aldermen shall be held at such place in the town of Daingerfield as may be designated by the board for the convenience of the people.

Sec. 4. That whenever a vacancy shall occur in the office of Mayor, a majority of the Aldermen acting, shall order an election to fill such vacancy, and the person so elected shall hold his office until the next regular election, and until his successor is duly qualified; and in case of the death, resignation, or removal of any Aldermen, Treasurer, or Constable, the Mayor shall order an election under such regulations as may be presented by the board to fill such vacancy.

Sec. 5. That no person shall be eligible to the office of Mayor, Alderman, Treasurer, or Constable, unless such person be a citizen of said town.

Sec. 6. That the Mayor shall be President of the board of Aldermen; that three of the members of said board shall constitute a quorum to transact business; and that said board shall enact such by-laws, for the government of said town, not inconsistent with the constitution and laws of the State, as may be deemed proper, and may impose fines for the disobedience of the same not exceeding twenty-five dollars for each offence.

Sec. 7. That the Board of Aldermen shall have and exercise control over the public square and streets of said town, and may compel all free male citizens, ministers of the gospel excepted, over the age of seventeen years and under forty-five, to work on the same; provided, that such persons shall not be required to work more than six days in any one year, and shall be exempt from other road duty in said county, and the board may impose such fines on defaulters as they may deem necessary, in which they shall be governed by the laws of this State regulating roads.

Sec. 8. That the board of Aldermen shall have power to levy a tax on all persons and property, both real and personal, in said town, subject to taxation by the laws of the State; provided, the tax on property shall not in any one year exceed one-half of one per cent. ad valorem on such property, and no tax shall be levied unless by a vote of two-thirds of the members present, which shall be assessed and collected by the Constable in the same manner as the State tax is collected.

Sec. 9. That the board of Alderman shall have power to appoint such additional officers, with the regulation of their duties, and compensation as may be necessary, and may require of them bond with security to the Mayor, in such sum as may be deemed requisite to compel the efficient discharge of such duties as may be assigned to them.

Sec. 10. That all offences against the by-laws shall be prosecuted before the Mayor; and, in the trial of the same, shall be governed by the law organizing Justices' Courts; and the Constable shall execute and return all writs and processes issued by the Mayor, in the same manner as is prescribed by the law defining the duties of Constables.

Sec. 11. That the Constable shall give bond and security, as required of other Constables, and shall have the same powers, and be entitled to the same fees for similar services.

Sec. 12. That the Mayor of said town shall be entitled to such fees as may be allowed to Justices of the Peace for similar services, together with such other compensation as may be allowed by the board of Aldermen.

Sec. 13. That the Aldermen shall be entitled to such compensation as may be allowed them by a majority of the board; provided, that in no case the same shall exceed two dollars per day for each day they may be required to set as such Aldermen.

Sec. 14. That the Treasurer shall keep safely all the money of said corporation; shall pay the same out upon the order of the Board, and shall do such other duties as may be assigned by the by-laws, and he shall give bond with security, payable to the Mayor, in such sum as may be deemed proper, conditioned for the faithful performance of his duties, to be approved by the board, and he shall be allowed such compensation as may be assigned by the board of Aldermen.

Sec. 15. That the Mayor be, and he is hereby vested with all the powers and jurisdiction of a Justice of the Peace, within the limits of said corporation.

Sec. 16. That the books and records of the corporation shall be at all times open for the examination of any person, citizen of said town.

Sec. 17. That this act take effect and be in force from and after its passage.

Approved, December 24, 1851.

CHAPTER XXXII.

An Act to incorporate Goodman's Turnpike Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That Zebulon P. Goodman, and such persons he may associate with him, are hereby incorporated under the name and style of Goodman's Turnpike Company, and under such name may sue and be sued, and may have succession for thirty years, from and after the passage of this act, and they may have the right of holding such real and personal property as may be necessary for carrying out the object of this incorporation.

Sec. 2. That it shall be the duty of said company to have a good, convenient, safe and substantial bridge across the East fork of the Trinity river, near the crossing of the old National Road, and within two years after the first day of January, eighteen hundred and fifty two, they shall construct good, convenient, safe and substantial bridges across all the sloughs which run through said East fork bottom on the route leading to said river bridge, and shall throw up and causeway a turnpike across said bottom, and ditch the same well upon each side, so as to make a good, convenient and safe road; and it shall be the duty of said said company to keep said bridges and turnpike in good rerepair during the aforesaid period of thirty years.

Sec. 3. That as soon as said company shall have said bridges across said East fork in good and convenient repair, and shall have bridged the sloughs in said bottom, they shall have the right to erect a toll-gate on said road, at which they may collect and receive toll at half the rates hereinafter specified; and so soon as said company shall have completed said turnpike as herein contemplated, they shall have the right to collect and receive toll, at not exceeding the following rates:—for each wagon, cart, carriage, or other vehicle, twenty cents per wheel, and ten cents for each animal by which it is drawn; for each man and horse, twenty cents; for each footman, or loose horse, ten cents; for cattle per head, five cents; for sheep, goats or hogs per head, three cents.

Sec. 4. That it shall be the duty of the County Court of Dallas county, to appoint two commissioners, and the County Court of Kaufman county to appoint two commissioners, who shall be disinterested, and reside near said turnpike, whose duty it shall be to inspect said bridges and turnpike; and a majority of said commissioners may, when they deem said bridges and turnpike out of repair, so as to be dangerous or inconve-

nient to be traveled upon, after giving said company ten days notice, order said gate to be opened, and such company to cease to collect tolls thereat, until the same is in repair.

Sec. 5. That the privileges of said Company shall extend five miles on each side of said road, across said river and bottom, within which limits no other Bridge Turnpike Road, or public ferry shall be made or kept, upon which tolls, pikeage, or ferriage shall be collected or received; and any person traveling upon said road, or crossing on any of said bridges, who shall wilfully pass around said toll-gate, for the purpose of evading the payment of toll, as levied by this act, shall forfeit and pay to said company five dollars and costs of suit, for each and every such offence, to be recovered before any Justice of the Peace in whose jurisdiction such person may be found.

Sec. 6. That said company shall, within ten days after the first day of January, eighteen hundred and fifty-two, build and complete a good, convenient, safe and substantial plank road across said bottom, which said plank road, together with the aforesaid bridges, shall all be raised above ordinary high water mark, for which the said company shall have such accession of tolls as the County Court of Dallas county may grant them, upon their application thereto; and upon the failure of said company to make and complete said plank road and additional improvements within the time specified, they shall forfeit their charter.

Sec. 7. That this act take effect and be in force from and after its passage.

Approved, December 24, 1851.

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## CHAPTER XXXIII.

An Act for the relief of the Securities of John W. McKissick, late Assessor and Collector of Fayette county.

Section 1. Be it enacted by the Legislature of the State of Texas, That the securities of John W. McKissick, late Assessor and Collector of Taxes for Fayette county, be, and they are hereby authorized and permitted to pay off and discharge the liabilities incurred by said McKissick to the State of Texas, as Tax Collector for said county of Fayette, during the years eighteen hundred and forty-five, eighteen hundred and forty-six, eighteen hundred and forty-seven, and eighteen hundred and forty-eight,

in certificates issued by the Auditor and Comptroller of the State of Texas, for audited par claims of the second class of the public debt of the late Republic of Texas; provided, that all costs and attorneys fees, and commissions shall be paid in cash.

Sec. 2. That should a part only of the securities of said McKisick, pay off and discharge his liabilities to the State in the manner above provided for, then the remainder of said securities shall have the right to pay to their co-surities, their proportionate part of said liabilities, in the same kind of funds, as those which may have been used in the discharge of the original liabilities to the State.

Sec. 3. That this act take effect, and be in force from and after its passage.

Approved, December 24, 1851.

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#### CHAPTER XXXIV.

##### **An Act for the relief of Lee Morris, Seth Morris and Ambrose Douthitt.**

Section 1. Be it enacted by the Legislature of the State of Texas, That conditionally recommended certificates, issued by the Board of Land Commissioners for Red River county, number forty, to Lee Morris, for one third of a league; number six hundred and sixty, to Seth Morris, and number one hundred and thirty-nine to Ambrose Douthitt, for one league and labor of land each, and the locations and surveys legally made under them, be and the same are hereby validated; and that the Commissioner of the General Land Office is hereby authorized to issue patents on said certificates, the same as upon all other good and legal claims.

Sec. 2. That this act take effect from and after its passage.

Approved, December 24, 1851.

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#### CHAPTER XXXV.

##### **An Act to authorize the Commissioner of the General Land Office to issue a patent in the name of William McMin Nuner on certificate number five hundred and eight.**

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be,

and he is hereby authorized to issue a patent in the name of William McMin Nuner, upon certificate number five hundred and eight, issued in Washington county, in the name of William McMin Nener, and recommended by the travelling Board of Land Commissioners.

Sec. 2. That this act take effect from its passage.

Approved, December 24, 1851.

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#### CHAPTER XXXVI.

An Act for the relief of the Heirs of Jonathan Wallace, dec'd.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to the heirs of Jonathan Wallace, deceased, a certificate for one league and labor of land.

Sec. 2. That said certificate may be located upon any of the vacant and unappropriated land of this State; and that the Commissioner of the General Land Office be, and he is hereby required upon the return of the field-notes, to issue a patent to the heirs of said Wallace, or his legal representatives, upon their paying the legal fees and government dues thereon.

Approved, December 30, 1851.

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#### CHAPTER XXXVII.

An Act for the relief of John A. Veatch, his heirs or assigns, assignee of Ramon Sanchez.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to John A. Veatch, his heirs or assigns, assignee of Ramon Sanchez, a duplicate certificate for one league and one labor of land, to be located and patented as in other cases of first class headright certificates; and that this act take effect and be in force from its passage.

Approved, December 30, 1851.

CHAPTER XXXVIII.

An Act for the relief of Wesley W. Hanks.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue a certificate to Wesley W. Hanks, for one-third of a league of land.

Sec. 2. That the said certificate may be located, surveyed and patented according to the laws regulating first class claims for headrights to land; and that this act take effect and be in force from and after its passage.

Approved, December 30, 1851.

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CHAPTER XXXIX.

An Act for the relief of Oliver Hedgecoxe.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to Oliver Hedgecoxe, as a colonist of Peters' colony, a certificate for three hundred and twenty acres of land, which certificate shall be located as required by law for the location of colony certificates, issued by Thomas Wm. Ward, commissioner of said colony; and that this act take effect and be in force from its passage.

Approved, January 5, 1852.

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CHAPTER XL.

An Act to incorporate the Victoria Lodge, No. 9, of the Independent Order of Odd Fellows.

Section 1. Be it enacted by the Legislature of the State of Texas, That the officers and members of the Victoria Lodge, No. 9, of the Independent Order of Odd Fellows, and their successors, be, and they are hereby declared to be a body corporate and politic, by the name and style of "the Victoria Lodge, No. 9, of the Independent Order of Odd Fellows," and by that name they and their successors shall, and may at all times hereafter, be capable in law to have, receive, and retain any estate,

real or personal by gift, purchase, demise or bequest, and such estate at their pleasure to transfer and dispose of in any such manner as they may think proper; provided, that said corporation shall not at any time, hold or possess property exceeding in value the sum of thirty thousand dollars, nor more than five acres of land; provided, however, that if any real estate exceeding five acres shall at any time accrue to said corporation, they shall be allowed one year to dispose of the same.

Sec. 2. Said corporation shall be capable in law to sue and be sued in any court in this State, and may have a common seal and use the same at their will and pleasure, which they may from time to time alter or renew; also to enact such by-laws for their own government, as they from time to time may think fit; and shall in general have and exercise all such rights and privileges and immunities, as by law are incident to and necessary to corporations of a similar character; and that this act take effect from and after its passage.

Approved, January 6, 1852.

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## CHAPTER XLI.

### An Act to Incorporate Battle Creek Academy, in the county of Navarro.

Section 1. Be it enacted by the Legislature of the State of Texas, That David Onstoll, Joshua Onstoll, Samuel Wright, G. W. Hill and Britton Dawson, be, and they are hereby incorporated a body politic, under the name and style of the Trustees of Battle Creek Academy, capable of suing and being sued, of pleading and being impleaded; of holding property, real, personal or mixed, of selling and conveying the same at pleasure; of having a common seal, and of changing the same at pleasure, and of doing and performing whatsoever else may be necessary and proper to be done for the advancement of said institution, not contrary to the laws and constitution of this State.

Sec. 2. That this charter and privilege shall extend to said Trustees and their successors in office, as long as they confine the benefit of the same to the advancement of the sciences and the promotion of useful knowledge, which institution shall be accessible alike to all, without regard to opinions of religion or politics.

Sec. 3. That the said Trustees and their successors in office,



shall have full power to enact such by-laws, rules and regulations for the government of said academy, as may seem to them necessary for that object, to fill vacancies which may occur in said board of Trustees, and to elect such officers as may be necessary for the efficient discharge of their duties; and that this act take effect, and be in force from and after its passage.

Approved, January 6, 1852.

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CHAPTER XLII.

*An Act for the relief of Sabina Draper.*

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to Sabina Draper, a land certificate for one league and one labor, which certificate shall be located, surveyed and patented as other first class headright certificates; and that this act take effect and be in force from and after its passage.

Approved, January 6, 1852.

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CHAPTER XLIII.

*An Act for the relief of Ambrose Hillburn.*

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue a certificate for one league and labor of land to Ambrose Hillburn, as a headright, to which he is entitled by his emigration to the Republic of Texas with his family prior to the revolution in 1835.

Sec. 2. That said certificate may be located, surveyed and patented according to the land laws regulating first class claims; and that this act take effect and be in force from and after its passage.

Approved, January 6, 1852.

## CHAPTER XLIV.

An Act for the relief of the heirs of Leeman Kelsey, deceased.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to the heirs of Leeman Kelsey, deceased, a certificate for one league of land; the same to be located on any vacant or unappropriated domain within the State of Texas, and shall be patented in accordance with the law in other like cases; and that this act take effect and be in force from and after its passage.

Approved, January 6, 1852.

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CHAPTER XLV.

An Act for the relief of the Heirs of Nancy Williams, deceased.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to the heirs of Nancy Williams, deceased, a certificate for one league and one labor of land, which certificate shall be located and patented as other first class headright certificates; and that this act take effect and be in force from its passage.

Approved, January 6, 1852.

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CHAPTER XLVI.

An Act to repeal an act to incorporate the City of Brownsville, approved January 24, 1850.

Section 1. Be it enacted by the Legislature of the State of Texas, That an act entitled "an act to incorporate the city of Brownsville," approved the 24th of January, 1850, be and is hereby repealed.

Sec. 2. That this act take effect and be in force from and after the first day of March, 1852.

Approved. January 8, 1852.

CHAPTER XLVII.

An Act to incorporate the town of Belton, in Bell County.

Section 1. Be it enacted by the Legislature of the State of Texas, That the citizens of the town of Belton, in Bell county, be, and they are hereby declared a body politic and corporate, under the style of town of Belton, and by that style may sue and be sued in all courts and suits whatever, and by that name may purchase, hold and convey any real or personal estate within the limits of said town, and may have a corporation seal.

Sec. 2. That all that tract of land which belonged to and comprehended the town of Nolandville, and now comprehending the town of Belton, and known as the town tract, shall be the limits of the town of Belton.

Sec. 3. That all persons who are qualified voters under the constitution of the State, and are citizens of the town of Belton, shall be authorized to vote in elections held in said town.

Sec. 4. That an election shall be held in said town on the first Monday of December, of each and every year, for a Mayor, five Aldermen, Constable, Secretary and Treasurer. The first election shall be ordered by the Chief Justice of Bell county, to be held as soon as practicable after the passage of this act, and every subsequent election shall be ordered by the Mayor and any two Aldermen; and if there be no Mayor, shall be ordered by any three Aldermen.

Sec. 5. All officers elected by order of the Chief Justice, shall hold their offices until the annual election, and all officers elected by order of the Mayor and Aldermen, or Aldermen, shall hold their offices for one year; and in case of elections to fill vacancies, the officers so elected shall hold their offices until the next annual election; provided, however, that all such officers so elected shall hold their offices until their successors are qualified.

Sec. 6. That no person shall be eligible to any of said offices, who is not a citizen of said town.

Sec. 7. That the Mayor shall be President of the Board of Aldermen; that the Mayor and four of the members of said board, shall constitute a quorum for the transaction of business; that said board may enact such by-laws for the government of said town, not inconsistent with the laws of the State, as may be deemed proper, and inflict such fines not exceeding one hundred dollars, as may be considered necessary.

Sec. 8. That the Board of Aldermen shall have control over

the streets of said town, may order new streets to be laid out, and old ones discontinued at their discretion; provided, however, that no new street be opened, nor old one discontinued, except by unanimous consent of the board, and the board shall be governed in such acts, by the laws of the State relative to roads and highways.

Sec. 9. That all free males, between the ages of twenty-one and forty-five years, shall be liable to work on the streets; that such persons shall not be compelled to work more than ten days in any one year; and the board shall impose such fines on defaulters as they may deem necessary, in which they shall be governed generally by the laws of this State.

Sec. 10. That the board shall have power to levy a tax upon all persons and property, both real and personal in said town of Belton, subject to taxation by the laws of the State; provided, that tax on property shall not in any one year exceed one per cent. ad valorem on said property, and to be levied at the beginning of each year, and shall be assessed and collected by an officer to be appointed by the board, in the same manner as the State tax is collected, and the board shall have power to levy a tax on all taverns, tippling-houses, billiard tables, and tenpin-alleyes in said town.

Sec. 11. That the Board of Aldermen shall have power to appoint such officers, fix their duties and salaries, and remove them for their defaults, or violations of duty, as said board shall think proper; and all such officers may be required to give bond with security to the Mayor, in such penalty as may be deemed requisite, and shall also be liable to such fines as may be imposed for neglect of duty.

Sec. 12. That the Board of Aldermen shall have power to regulate its own proceedings, and to prescribe the duty of all officers of the corporation, not inconsistent with the laws of the State, and shall have power to enact all ordinances necessary for the peace and welfare of the said town, not contrary to law.

Sec. 13. That the Mayor shall have jurisdiction, and exercise the powers conferred by law on Justices of the Peace, in criminal cases, and over all offences, defaults, and violations of duty, committed against the ordinances and decrees of the Board of Aldermen, within the limits of the corporation.

Sec. 14. That all offences against and violations of the ordinances aforesaid, shall be prosecuted before the Mayor in such manner as is provided by law in the acts organizing justice's courts, and defining the powers and jurisdiction of the same, and the

Constable shall execute all writs directed to him by the Mayor.

Sec. 15. All elections shall be held in accordance with the laws regulating elections.

Sec. 16. That the Constable, Secretary and Treasurer shall give bond and security, for the performance of duty, to be approved by the Board of Aldermen.

Sec. 17. That the Board of Aldermen shall make such compensation to the Mayor, and allow him such fees as may be deemed proper.

Sec. 18. That the Treasurer shall keep safely all the money of said corporation, shall pay out the same to the order of the Board of Aldermen, and shall perform such other duties as may be assigned him by the by-laws, and shall give bond and security, payable to the Mayor, in such sum as may be deemed proper by the board, conditioned for the faithful performance of his duties, which shall be approved by the Board of Aldermen, and shall receive such fees as shall be provided for by the by-laws of said corporation.

Sec. 19. That the inhabitants of said town may at any time (a majority of the electors thereof concurring,) extend their corporate limits, not exceeding half a mile from their present limits; provided, the owners of the additional territory shall consent thereto.

Sec. 20. That if any person elected or appointed to office under this charter fail to qualify within ten days after his election or appointment, the board shall have power to declare the office vacant, and order another election.

Sec. 21. That all officers of the corporation shall, before entering on the duties of their respective offices, make oath to faithfully perform the duties of their respective offices.

Sec. 22. That elections shall be ordered to be held at least ten days before the expiration of the terms of office, of the officers designated by this charter.

Sec. 23. That all contests in elections shall be determined by the Board of Aldermen; provided, however, that the elections held by order of the Chief Justice of Bell county, shall, if contested, be determined by the County Court of said county.

Sec. 24. That the books and records of said corporation shall at all times be open to the inspection of any citizen of said town.

Sec. 25. This act shall take effect from and after the passage thereof.

Approved, January 15, 1852.

## CHAPTER XLVIII.

## An Act for the relief of Theresa Tyler.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office, issue to Theresa Tyler, a certificate for one league and one labor of land, which certificate shall be located and patented, in separate property, and for the sole use and benefit of the said Theresa Tyler and her heirs, and no other person, as other first class headright certificates; and that this act take effect from and after its passage.

Approved, January 15, 1852.

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CHAPTER XLIX.

## An Act for the relief of Wm. Grooms and Thomas N. Little.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to William Grooms and Thomas N. Little, each a certificate for three hundred and twenty acres of land.

Sec. 2. That said certificates may be located on any vacant and unappropriated land in this State; and that the said Commissioner be, and he is hereby required upon the return of the field-notes to issue patents thereon, upon the payment of the fees according to the requirements of law; and that this act take effect from and after its passage.

Approved, January 15, 1852.

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CHAPTER L.

## An Act to re-incorporate the Town of Huntsville.

Section 1. Be it enacted by the Legislature of the State of Texas, That the corporate limits of the town of Huntsville shall be an area of one mile square, the centre whereof, shall be the centre of the public square of said town; and that all the citizens and territory lying within said limits, be, and the same is hereby incorporated under the name of the town of Hunts-

ville, and under that name, it may sue and be sued, plead and be impleaded, have a corporate seal, and enjoy all the rights and privileges appertaining to aggregate corporations, which are not inconsistent with the constitution and laws of this State, and of this act.

Sec. 2. That so soon as this act shall go into effect, it shall be the duty of the Chief Justice of Walker county, to order an election to be holden at the courthouse in Huntsville, for the purpose of electing five Aldermen, whose duty it shall be to manage and control the affairs of said corporation for the time for which they shall be elected; said election shall be held in the same manner, and under the same rules and regulations as other county elections, and every person entitled to vote for county officers, and residing within the corporate limits of said town, shall be entitled to vote; the five persons receiving the highest number of votes shall be declared elected, and shall receive a certificate thereof.

Sec. 3. That said Aldermen shall hold their offices until the first Saturday in January, eighteen hundred and fifty-three, and until their successors are qualified; and on the last Saturday in December, in every year, it shall be the duty of the said Chief Justice to hold a similar election for Aldermen for said town; but should said election for any cause not be holden on that day, it shall be holden as soon thereafter as practicable, the said Chief Justice giving five days previous notice of the time of holding the same.

Sec. 4. That the Aldermen so elected, shall meet on the Saturday following their election, or as soon thereafter as practicable, and after taking the oath of office, organize by the election of one of their number as Mayor during the year, also of a Treasurer, Bailiff and such other officers as they may require.

Sec. 5. That said corporation shall have power to levy and collect taxes, not exceeding the State and county taxes, and the tax lists when made out and approved by the Mayor of the town, shall have the same force and be collected in the same manner as the tax lists of the county and State taxes; and every person so taxed, who shall fail to pay the same on request by the proper officer, if otherwise liable to work on the public roads, shall be reported to the County Court of Walker county, and assigned to such of the county roads as it may deem proper.

Sec. 6. That said corporation shall have power to require of any of its officers suitable bonds for the faithful discharge of their respective duties, and to appoint and remove any of them at pleasure; to buy and sell real estate within the corporation;

to provide for all necessary public buildings and improvements; to keep the streets and bridges in good repair; to levy and collect a license tax upon all shows, stores, groceries, billiard rooms, and such other occupations and privileges as pay a license to to the State; provided, such license tax shall not exceed the State and county taxes upon the same privileges and occupations.

Sec. 7. That the Mayor of said corporation shall have jurisdiction to hear and determine all violations of the laws and ordinances of the same, and all proceedings before his court shall be conducted under the laws governing the courts of Justices of the Peace in this State; and all warrants, executions, and other process issued by him, shall be directed to the Bailiff of the town of Huntsville, who shall execute the same in the same manner and under the same rules and restrictions, as those governing constables in this State; provided, that the said Mayor shall have no criminal jurisdiction, or jurisdiction of any case in which the said corporation is not a party; and, provided further, that any person sued before said Mayor, shall have the right of having a jury, as in like cases before Justices of the Peace.

Sec. 8. That said corporation shall have power to make such regulations as they may deem best for the government of slaves coming within or living in the town; to appoint patrols; to levy fines upon gambling-houses, upon persons selling or giving ardent spirits to slaves without the written permit of the owner; to prevent the firing of guns in the town; to regulate the market of provisions; to provide for the health, police, good order, and quiet of the town.

Sec. 9. That it shall be the duty of the County Court of Walker county, so soon as the bridges and streets of said town are put in good repair, by an order entered on their minutes, to excuse the citizens residing in said town from working on the public roads; but should said streets and bridges be again permitted to get out of repair, said court shall rescind said order, and assign those so liable by the laws of the State, to work on the public roads, until said streets and bridges are again placed in repair.

Sec. 10. That the Mayor of said town shall not be entitled to any fees for his judicial duties; the fees of the Bailiff and Treasurer, shall be the same as those allowed to Constables and county Treasurers by the laws of this State, and such other compensation for extra services, as the corporation may determine.



Sec. 11. That all other laws in regard to the incorporation of the town of Huntsville, are hereby repealed.

Approved, January 19, 1852.

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CHAPTER LI.

An act to incorporate the town of Carthage, in Panola County.

Section 1. Be it enacted by the Legislature of the State of Texas, That the citizens of the town of Carthage, in Panola county, be, and they are hereby declared a body politic and corporate, under the name and style of the corporation of the town of Carthage, and by that name shall have power to sue and be sued, plead and be impleaded; and to hold and dispose of real and personal property; provided, such real property is situated within the limits of said corporation.

Sec. 2. That it shall be the duty of the citizens of said corporation to elect a Mayor, eight Aldermen, a Collector and Constable; and a Treasurer and Secretary shall be elected by said Aldermen from their own body; the Treasurer and Collector being required to give bond and security, to be approved by the presiding officer, for the faithful performance of their duties, and to make reports when required by the Mayor or Board of Aldermen; and the Mayor shall have power, when necessary, to suppress riots and disturbances, and to call out the citizens of said corporation for the purpose of restoring order.

Sec. 3. That the first election shall be held under the direction of the Chief Justice of said county, after having given ten days notice thereof; and annually afterwards, under the direction of the Mayor, at least ten days before the expiration of his term of office; and that in case of death or resignation, the vacancy or vacancies shall be filled by new elections, to be ordered by the Mayor; and in case the office of Mayor shall be vacant, then the Aldermen shall elect one of their own body to act as Mayor until the next annual election.

Sec. 4. That no person shall be eligible to any office under the provisions of this charter, who is not a citizen of this State, and a resident within the limits of the corporation; nor shall any person have a right to vote for officers who is not a citizen and resident within its limits.

Sec. 5. That the Mayor and Board of Aldermen of said corporation shall have power to pass such rules and ordinances as

may be necessary for the regulation of the police, and the preservation of order within the corporation limits; to levy taxes for the removal of nuisances and keeping the streets in good order, and to prescribe penalties for the violation of the ordinances and by-laws of the corporation; provided, that in no case shall such penalties exceed one hundred dollars.

Sec. 6. That the limits of said corporation shall extend one-half mile in every direction from the Courthouse on the public square of the said town of Carthage, in the centre of said corporation limits.

Sec. 7. That the Mayor, with a majority of said Aldermen, shall constitute a quorum for the transaction of business, and shall enact and enforce such rules and regulations as they may deem necessary for the government of said corporation; provided, that the same do not conflict the constitution and laws of this State.

Sec. 8. That this act take effect and be in force from and after its passage.

Approved, January 19, 1852.

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## CHAPTER LII.

### An Act to incorporate the Attoyac Turnpike Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That Milton Garret, John Polk and their associates or assigns, be, and they are hereby created a body corporate, under the name and style of the Attoyac Turnpike Company, and in that name may sue and be sued; plead and be impleaded; may have a common seal; with full power to construct a turnpike road in the counties of San Augustine and Nacogdoches, across the bottom of the Attoyac river, on the stage road leading from San Augustine to Nacogdoches; commencing at the foot of the hill in San Augustine county, and terminating at the high land on the west side of said stream.

Sec. 2. That as soon as said company shall complete said road so as to be passable at all times, and receive a certificate stating that fact from the County Court of San Augustine or Nacogdoches counties, they shall be authorized to demand and receive the following tolls, viz: For each loaded wagon, not to exceed fifty cents including drivers and team, and for all oth-

er wagons and carriages of any description, not to exceed ten cents per wheel; for each horse or mule and rider, ten cents; for loose horses or mules, five cents per head; for cattle, hogs, goats, sheep or other stock, three cents per head. The road to be constructed by throwing up an embankment, levee or open bridges, as the company may deem best, sufficiently wide to admit of teams to pass, and to be elevated above the usual high water mark in said bottom or on either side, and a bridge across said river.

. Sec. 3. That said company may erect as many gates for the collection of toll as may be deemed necessary; provided, that no person shall be liable to pay toll at more than one gate for each passage; and, provided further, that persons travelling only part of the road shall be required to pay full toll if such person cross the main stream on bridge.

Sec. 4. That if any person shall travel on said road, or drive any horses, mules, cattle, sheep, goats, swine or other animals of any description, or any wagon or carriage of any description on the same, without paying toll therefor, or shall obstruct or damage said road, the said company shall have the right of action to recover such toll or damages sustained, in any Court having competent jurisdiction.

Sec. 5. That should any person or persons, using said road, or traveling upon it, be detained or injured in his or her property, by reason of the insufficiency of said road, or bridge constructed thereon, or through the negligence or malconduct of any agent of said company, the said company shall be liable to the person or persons so detained or injured, in an action for damages, in any Court having jurisdiction.

Sec. 6. That said company shall enjoy and exercise the privilege herein granted for the term of thirty years from and after the completion of said road.

Sec. 7. That said company shall have three years to complete said turnpike road from the first day of June, one thousand eight hundred and fifty-two, and if the same is not complete by said time, this charter shall be null and void.

Approved, January 19, 1852.

## CHAPTER LIII.

An Act for the relief of Emanuel Clements, Nancy A. Roberts, Sophia Sanders and Nelson Morey.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office issue to Emanuel Clements, Nancy A. Roberts, Sophia Sanders and Nelson Morey, each, a land certificate for six hundred and forty acres of land; and that this act take effect and be in force from and after its passage.

Approved, January 19, 1852.

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CHAPTER LIV.

An Act for the relief of the heirs of Ignacius S. Johnson.

Sec. 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office, be, and he is hereby authorized and required, upon the application of Joseph F. Johnson, sole heir of his father, Ignacius S. Johnson, or his authorized agent, to cancel patent number four hundred and forty-nine, first class, for one-third of a league of land, situated on York's Creek, in the county of Guadalupe, recorded in volume three, First Class Records, and which was issued in the name of Ignacius S. Johnson; and the said Commissioner of the General Land Office is further authorized and required to deliver to the said Joseph F. Johnson or his agent, the certificate upon which said patent was predicated: which certificate shall be sufficient authority to any lawful surveyor to survey the same upon any vacant and unappropriated public domain of this State; upon which certificate and survey or surveys, the Commissioner of the General Land Office is hereby required to issue a patent or patents as upon any other legal claim against the Government for land; and that this act take effect and be in force from its passage.

Approved, January 19, 1852.

CHAPTER LV.

An Act for the relief of the heirs of Joseph Rutherford, deceased.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Adjutant General of the State be, and he is hereby authorized and required to issue to the heirs of Joseph Rutherford, deceased, whose name appears on the muster-roll of Captain Cary, as filed in the Adjutant General's office of this State, a bounty land warrant for six hundred and forty acres of land, for having participated in the storming of Bexar in 1835; and that this act take effect and be in force from its passage.

Approved, January 19, 1852.

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CHAPTER LVI.

An Act to permit Fitz William Bonner to practice Law.

Section 1. Be it enacted by the Legislature of the State of Texas, That Fitz William Bonner is hereby permitted to practice law in all the Courts of this State, if after undergoing the examination required by law, he shall be found qualified; provided, that he shall not be exempt from any liability on his professional contracts by reason of his minority.

Sec. 2. That this act shall take effect from its passage.

Approved, January 19, 1852.

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CHAPTER LVII.

An Act to incorporate the Clarksville and Red River Turnpike Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That a company be, and is hereby incorporated, under the name and style of the Clarksville and Red River Turnpike Company, to be governed by the rules and regulations herein-after mentioned; and that said company shall constitute a body corporate and politic for the period of thirty years, and that said

company, under the name of the President and Secretary, shall be competent to contract for, buy, receive, hold and possess all kinds of property that may be necessary for the purposes for which said corporation is created, and to make all contracts and to do all things necessary to effect the end for which said company was incorporated; to sue and be sued in the name of the President and Secretary of said corporation; and to have a corporate seal, to bind said company with or without a seal, and that said company shall have power to make their own by-laws and regulations, not conflicting with the provisions of this act, nor the laws and constitution of this State.

Sec. 2. That said company shall have the right to make a road beginning at Clarksville and terminating on Red River, at a point not above Albion nor more than one mile below Rowland; said road to be made passable at all times by building substantial bridges on the creeks and branches thereof, and by constructing a turnpike through the bottoms and low grounds on said road.

Sec. 3. That it shall be the duty of said company, within four years after the passage of this act, to construct good and substantial bridges across the creeks and branches on the road designated in the second section of this act, and to throw up a turnpike across the bottoms and low grounds on said road; the whole to be above ordinary overflows, and shall keep said road and bridges when so constructed, in a state of good repair during the aforesaid period of thirty years.

Sec. 4. That on the first day of April, eighteen hundred and fifty-two, books for stock in said road, shall be opened at the office of the Clerk of the County Court of Red River county, when and where any person may subscribe the number of shares that he will take in the stock in said road, the shares being estimated at twenty-five dollars each; and as soon as eighty shares are, or shall have been taken, it shall be the duty of the Clerk to cause notice thereof to be given to the stockholders, in some newspaper published in said county, notifying said stockholders to meet at the Courthouse in the town of Clarksville on some specified day, not less than ten nor more than twenty days thereafter.

Sec. 5. That on the day appointed, said stockholders shall meet and choose a President and Secretary, and such other officers as they may deem necessary, and the rules, regulations and by-laws of said company shall be recorded in the County Clerk's office of Red River county, after which they shall be

considered a body corporate, and may sue and be sued, by said President and Secretary being made plaintiffs or defendants as the case may be.

Sec. 6. That the stockholders shall have the privilege of voting agreeable to the number of shares that they may own, and may vote by proxy.

Sec. 7. That the interest of each stockholder may be sold, transferred or assigned on the books of the corporation, but not otherwise.

Sec. 8. That said company shall have the exclusive occupancy of the vacant land in the bottoms and low grounds on said road, for the distance of forty rods on each side of said road, with the privilege of using the timber thereon for the construction of said road and bridges and the keeping of the same in repair.

Sec. 9. That it shall be the duty of the County Court of Red River county, at the request of said company, to appoint three Commissioners, whose duty it shall be to inspect said bridges and road, and if said Commissioners shall find the same complete in accordance with this act, they shall give said company a certificate of the fact, upon the receipt of which, said company may erect two toll gates in said road, neither of which shall be within four miles of Clarksville, and said gates shall be at least five miles apart; at either of said gates said company may receive and collect toll, not exceeding the following rates, viz: For all carriages and wagons, ten cents per wheel, and five cents per head for the team attached thereto; for man and horse, ten cents; for footmen, five cents; for loose horses and mules, five cents; for cattle per head, three cents; for hogs and sheep, one cent, and other things not above enumerated, at the same rates; provided, said company shall not be allowed to collect any of said tolls for passing over said road until the Commissioners appointed as aforesaid, shall give the certificate of the completion of said work, under the penalty of five dollars, to be recovered by and for the use of the person or persons charged with such toll or tolls, before any Court having jurisdiction of the same.

Sec. 10. That the Commissioners appointed under this act, shall hold their offices for one year, and until their successors are appointed by the Court aforesaid, and it shall be their duty at any time when said road or bridges be out of order and unfit for travel, to report the same to said Court, and if said report is sustained, said Court shall direct said toll gates to be thrown

open, and so continue until said road and bridges shall have been put in order by said company; further, it shall be the duty of said Commissioners to visit said road and bridges twice a year, for which they shall each receive two dollars per day, to be paid by said company.

Sec. 11. That if any person traveling on said road or crossing said bridges shall wilfully go around said toll gates, for the purpose of avoiding the payment of the tolls levied by this act, he shall forfeit and pay to said company five dollars and costs of suit for every offence, to be recovered before any Justice of the Peace in whose jurisdiction said person may be found.

Sec. 12. That this act take effect and be in force from and after its passage.

Approved, January 24, 1852.

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## CHAPTER LVIII.

### An Act to incorporate the Town of Gilmer.

Section 1. Be it enacted by the Legislature of the State of Texas, That the citizens of the town of Gilmer, in Upshur county, be, and they are hereby declared a body politic and corporate, under the name and style of the corporation of the town of Gilmer, who shall have the power of suing and being sued, pleading and being impleaded, and to hold property, real and personal, within the limits of said corporation, and at their pleasure to dispose of the same.

Sec. 2. That it shall be the duty of the Chief Justice of the county, to order an election, to be holden as early as practicable after the passage of this act, upon giving ten days notice thereof, for the election of one Mayor and five Aldermen, a Collector, or Constable, a Treasurer and Secretary, who shall hold their office for the term of one year from the time of their election. In case a vacancy occurs by death, resignation, or otherwise, the vacancy for the unexpired term shall be filled by a new election, as follows: in case of vacancy of the office of Mayor, then the election to be conducted by a quorum of the board of Aldermen; but in case of vacancy in the board of Aldermen, Collector, Treasurer, or Secretary, then the election shall be conducted by the Mayor; and all persons residing within the corporation shall be entitled to a vote for the above



named officers, who may be entitled to a vote for members of the Legislature.

Sec. 3. That the Mayor and a majority of the board of Aldermen shall constitute a board to transact business.

Sec. 4. That the Collector, Treasurer and Secretary shall give bond in such sum, and with such securities as shall be approved of by the Mayor and board of Aldermen; and that all officers, elected by virtue of this act, before entering upon the duties of their office, shall take and subscribe an oath for the faithful discharge of the duties of their respective offices.

Sec. 5. That it shall be the duty of the Mayor to cause an election to be holden annually, at least ten days previous to the expiration of his term of office, for all the officers mentioned and required to be elected by this act; who shall enter upon the duties of their respective offices upon the expiration of the term of their predecessors.

Sec. 6. That the Mayor shall have jurisdiction, and exercise the powers now conferred by law on a Justice of the Peace in criminal cases, over all offences committed against the ordinances and decrees of the Mayor and Aldermen within the limits of the corporation.

Sec. 7. That the Mayor and Aldermen shall have power to pass such ordinances and decrees as they may think necessary; to the establishment of the schools and the support of education; for the regulation of the police, and the preservation of good order; to prescribe penalties; to levy taxes for the removal of nuisances, keeping the streets in order, and such other purposes as the board may deem necessary and proper within the limits of said corporation; provided, that such ordinances and decrees shall not conflict with the laws and constitution of this State.

Sec. 8. That the limits of said corporation shall embrace all that tract of land originally included within the limits and plats of said town, and that this act take effect and be in force from and after its passage.

Approved, January 24, 1852.

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## CHAPTER LIX.

### An Act to incorporate the City of San Antonio.

Section 1. Be it enacted by the Legislature of the State of Texas, That the citizens of San Antonio, in the county of

Bexar, be, and they are hereby declared a body corporate, by the name of the City of San Antonio; may sue and be sued, may hold, take and dispose of real and personal property in said city; and may make and alter the corporate seal.

Sec. 2. That the bounds and limits of said city, within which said corporation shall have jurisdiction, shall include all that tract of land originally granted to, and composing said city with its precincts.

Sec. 3. That the qualified voters shall, every year, on the last Monday in December, elect, by ballot, a Mayor and eight Aldermen for a Council; due public notice of which election shall be given for at least ten days prior to said election, by the Mayor in office, who, in conjunction with such other persons as the Council shall appoint, shall preside over and manage and declare said election; and the Mayor and Aldermen elect, on taking the oath to discharge their duties faithfully, shall enter into office on the first day of January, to continue therein one year, or until their successors are qualified. But if such election should not be held at the proper time, then any time thereafter, it shall be the duty of the Chief Justice of Bexar county, to order, receive returns of, and declare such election, giving therefor ten days previous notice; and the election of a Mayor or Alderman may be contested under the rules regulating county elections.

Sec. 4. That no person shall be eligible to the Mayoralty, or to an Aldermancy, nor be a qualified voter in a city election, unless he be either a free-holder or house-holder in said city, resident therein one year next before the election, and has paid his taxes, licenses, and all city dues, nor unless he have the qualification of citizenship required by the State constitution.

Sec. 5. That the Mayor, as president, and not less than five Aldermen, shall be a quorum; and may enact all such by-laws and resolutions as they may deem right and expedient for the government of said city, and not repugnant to the laws of Texas, and they shall have power and authority to enforce the same.

Sec. 6. The Council shall have one known regular day of meeting every month, and such other meetings as the business may require, or as the Mayor may call specially.

Sec. 7. If the Mayor be absent, six Aldermen may meet and act, appointing one of them chairman; if the Mayoralty be vacant by death, resignation, or otherwise, six Aldermen may

elect one of them Mayor; and if there be an Aldermancy vacant, may elect a citizen to fill it.

Sec. 8. The Council shall elect a Recorder, an Assessor, and a Collector, a Treasurer, a City Marshal, and all subordinate officers and deputies. But in all elections held in the Council, the votes shall be taken by ayes and noes, and recorded in the journal; and the Council, if they find it advisable, may conjoin two or more offices in one person, or if the duties shall become too arduous, they may disjoin the functions of any one of said offices, and elect to any of them, two or more persons.

Sec. 9. The Recorder shall keep a true record of the proceedings of the Council, and read them at the succeeding meetings, and shall be the City Judge, and shall try all offences against the laws and ordinances of the city, and be ex-officio Justice of the Peace, with civil and criminal jurisdiction.

Sec. 10. The Recorder, Treasurer, Assessor and Collector, Marshal and all other officers, shall give such bond and receive such compensation as may be fixed by the Council; and they shall hold their offices at the pleasure of the Council.

Sec. 11. For the present, the salary of the Mayor shall be four hundred dollars; but hereafter, if held expedient by the Council, they may alter the said amount; provided, such alteration shall not take effect until the expiration of that year.

Sec. 12. The Mayor is required to be the responsible executive, charged with enforcing the police, sanatory, and all other laws and ordinances. The Aldermen shall also be conservators of the peace. The Recorder shall be the City Judge, and shall exercise all the functions of a Justice of the Peace.

Sec. 13. The Council shall have power to call out the citizens to save persons and property from violence; shall have power to organize fire or other companies, to guard against dangers; and all persons failing, or refusing to give their assistance, after being so called out, shall be fined before the Recorder in a sum not to exceed one hundred dollars.

Sec. 14. The Council shall organize a system of police, and have charge of the streets, squares, roads, bridges, public buildings, markets, the public schools, the canals and ditches; with power to open, widen, straighten, or discontinue streets and alleys; to require the adjacent owners to pave the side walks and streets; they shall regulate the conduct of slaves; they shall control and regulate, by law, the distribution of water of irrigation within the corporation, and all matters connected with the dams, ditches, fences and bridges; and if they deem it necessary, they may hereafter prohibit the use of grass, wood or

other ignitable materials in the construction of houses; they shall regulate the theatres, exchanges and all other places of public amusement or of general resort; they shall regulate the inspection of brands at the markets, and all edibles offered there; and to verify weights and measures; and generally to enact and enforce all regulations deemed rightful and expedient, and for the good order and prosperity of said city.

Sec. 15. Citizens unable to pay taxes may be required to contribute day's labor, in lieu therefor, on any public or other works; and no citizen shall be required to work on roads out of the corporation.

Sec. 16. The Council, by the vote of five Aldermen, given by ayes and noes, and recorded in the journal, may levy an equal tax on all real and personal property, and merchandize, or they may exempt a certain amount of household goods; and by a like vote may levy a license tax on physicians, surgeons, boarding houses, livery stables, hackmen and draymen; and may license or close all theatres or shows, or any grog shop, restaurat, billiards, ten-pins, fandangoes, and such like indulgencies; but they shall not tax agricultural and mechanical trades.

Sec. 17. The Council shall have power to pass and enforce all laws deemed necessary to protect the public peace; and parties fined by the Recorder for a breach of the peace, if unable to pay, may be detained in the custody of the Marshal, and imprisoned as on a misdemeanor, and be made to labor on such public or other works as may be directed by the Council, at the rate of fifty cents, with board, for each day's work until such fine be paid.

Sec. 18. The Marshal shall be an ex-officio Constable within the corporation. The Recorder and Marshal shall give such bonds as may be required by the board; and they shall be entitled to all the fees to which Justices of the Peace and Constables are entitled.

Sec. 19. All debts due the city for taxes, or anything else, may be sued out in the Recorder's Court; and all property levied on by the Marshal, in virtue of an execution from the Recorder's Court, shall, by said Marshall, be sold in accordance with the law of the State regulating execution sales.

Sec. 20. The City Council shall require of the Treasurer descriptive accounts of the city's receipts and expenditures; and it shall be his duty to publish a full statement of the same at least once a year.

Sec. 21. The Council may hereafter divide the city into wards, and distribute the representation of Aldermen as nearly equal as they can.

Sec. 22. This charter shall be adopted only after it has been published three weeks in a San Antonio gazette, with notice, that on a day certain, twenty or more days after date, an election will be held by those now entitled to vote at the San Antonio city elections, upon its acceptance or rejection; when, if a majority shall vote in favor, then this shall be the city charter, and thereafter all laws passed by the Republic or State of Texas, to charter, or for and relating to the incorporation of said city, shall stand repealed.

Approved, January 24, 1852.

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## CHAPTER LX.

### An Act to charter the Bastrop Academy.

Whereas, The Bastrop Educational Society, with a view to effect the object of said association, elected seven of their numbers, to-wit: Samuel W. Sims, Charles L. McGehee, Josiah W. Whipple, C. K. Hall, Thomas B. J. Hill, A. W. Hill and Samuel B. Morris, to take charge of the financial and educational interest of the same; and,

Whereas, The said seven directors, in accordance with the instructions received, proceeded to purchase a lot and erect a commodious building, and have now in operation under their charge, a large and increasing institution; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That this institution shall be known as Bastrop Academy, and under that name shall be subject to the same regulations and enjoy the same privileges as other institutions of the same grade. The officers of this institution shall consist of seven Directors, and such teachers as shall be from time to time employed in it.

Sec. 2. That the said Directors shall be elected by the stockholders of this association, at their annual meeting on the first Monday in July, and shall hold their office for three years; provided, however, that immediately after their first election, which shall be on the first Monday in July next, they shall be divided into three classes, which shall be determined by lot; the office of the first class shall be vacated at the expiration of

the first year; that of the second class at the expiration of the second year, and that of the third class, at the expiration of the third year, so that one-third shall be chosen every year; provided, however, that any Director may be eligible to re-election; and, provided, further, that any Director may be removed for incompetency or neglect of duty by a vote of two-thirds of the stock-holders; and to the said board shall be committed the educational and financial interests of said company. They shall have power to appoint one of their number chairman; they shall receive and appropriate all monies belonging to the association; they shall have power to erect and repair all necessary buildings and improvements upon the grounds belonging to said association, and to purchase such books and apparatus as they may deem necessary for the use of the school; the said board shall have power to employ as many teachers as they may think necessary to the success of the school, and fix their salaries; the said board shall have power to enact such by-laws as may be necessary for the good government of said Academy; provided, the same be not in contravention to the constitution or the laws of this State, or to any resolution of the stock-holders; and, provided, further, that the said board shall not have power to dispose of any property belonging to this association, foreign to the educational interests of the company.

Sec. 3. That it shall be the duty of the board of Directors to submit perfect reports of all their proceedings, at the regular meetings of the stock-holders; they may have and use a seal to authenticate and perpetuate all certificates of scholarship.

Sec. 4. That the faculty shall consist of the President, Professors and Teachers thereunto belonging. The faculty shall have power to enforce all laws adopted by the board of Directors for the government of the school, by such means as may be considered reasonable; and shall have power to suspend any student who may knowingly violate the laws; which suspension shall last until the board of Directors can be convened, who, conjointly with the faculty, shall have power to remit or continue the suspension; they shall also have power to expel disorderly students; but no student shall be suspended or expelled, who has not knowingly violated some law of the board of Directors.

Sec. 5. That the board of Directors, conjointly with the faculty, shall have power to confer such degrees in the arts and sciences upon any student of Bastrop Academy, or person by them thought worthy, as are usually conferred by other Col-

leges or Academies of a similar grade, and to grant certificates thereof, signed by the faculty and directors, and sealed with the seal of said Academy, to authenticate and perpetuate their acts.

Sec. 6. This act shall take effect from and after its passage.

Approved, January 24, 1852.

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## CHAPTER LXI.

An Act for the Relief of Andrew C. Walters and Albert Emanuel.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office issue to Andrew C. Walters, as assignee of Eustachee Newberry, a patent for one league and labor of land, by virtue of certificate No. 435; and to Albert Emanuel, or his assignee, a certificate for one league and labor of land, in the place of certificate No. 482, each issued by the board of Land Commissioners for Nacogdoches county, under decree of the District Court; and that this act take effect from and after its passage.

Approved, January 24, 1852.

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## CHAPTER LXII.

An Act for the Relief of the Estate of Jabez Fitzgerald, deceased.

Section 1. Be it enacted by the Legislature of the State of Texas, That the estate of Jabez Fitzgerald, deceased, be, and the same is hereby released from all liability to the State of Texas on account of a certain judgment rendered by the District Court of Fannin county, on the 24th day of February, A. D., one thousand eight hundred and forty-five, at the suit of Anson Jones, President of the Republic of Texas, vs. Francis Williams and others; which judgment was afterwards on the first day of March eighteen hundred and forty-five, amended so as to embrace the name of the executrix of the said Jabez Fitzgerald, deceased; provided, that nothing contained in this act shall be so construed as to release the said Francis Williams

from his liability on account of said judgment; provided, that this act shall not be so construed to embrace the costs incident to said judgment.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved, January 24, 1852.

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## CHAPTER LXIII.

### An Act to Incorporate the Sulphur Fork Turnpike Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That Mark Epperson, Charles Graham, Lee Morris, George Morris, Henry S. Janes and Benton Bingham, and such other persons as they may associate with themselves, are hereby incorporated under the name and style of the Sulphur Fork Turnpike Company; that they and their successors shall constitute a body corporate and politic for the period of thirty years; that under that name they shall be competent to contract for, buy, receive, hold and possess all kinds of property that may be necessary for the purpose for which said corporation is created; to make all contracts and do all things necessary to effect the end for which they are incorporated; to sue and be sued; to have a corporate seal; to bind themselves with or without seal, and to make their own by-laws, rules and regulations, not conflicting with the provisions of this act, nor with the constitution and laws of the State.

Sec. 2. That the interest of each member may be sold, transferred or assigned upon the books of the corporation, but not otherwise.

Sec. 3. That said company shall, within four years from the passage of this act, construct a good and substantial turnpike road across the low-lands on the Sulphur Fork of Red river, at Epperson's Ferry, from the high-land in the county of Cass, with bridges across the sloughs, the whole to be above ordinary overflow, with the privilege of keeping a ferryboat in, or constructing a bridge across the main stream; provided, said bridge shall be sufficiently high to admit the free passage of steamboats; and further provided, that no additional charge for ferriage shall be made at said main stream, or for crossing said bridge.

Sec. 4. That said company shall have the exclusive occu-



pany of the unappropriated land in the bottom of said river, from the main channel to the bluff, for the distance of eighty rods on each side of said road, with the privilege of using the timber thereon, for the construction of said bridges and road, and the keeping of the same in repair.

Sec. 5. That it shall be the duty of the County Court of Bowie county, at the request of said company, to appoint three Commissioners, whose duty it shall be to inspect said road and bridges; and if said Commissioners shall find same completed in accordance with this act, they shall give said company a certificate of the fact; upon the receipt of which, the company may erect upon any of said bridges, or upon any portion of said road a toll-gate, at which they may collect and receive toll, not exceeding the following rates, viz: for all carriages and waggons, twenty cents per wheel, and ten cents per head for the team thereto attached; for man and horse, twenty cents, for footmen, ten cents; loose horses and mules, ten cents each; cattle per head, five cents; hogs and sheep, three cents each, and other things not above enumerated at the same rates.

Sec. 6. That the Commissioners appointed under this act shall hold their office for the term of one year, and until their successors shall be appointed by the Court aforesaid; and it shall be their duty at any time when said road or bridges be out of order and unfit for travel, to direct said toll gate to be thrown open, and so continue until said road and bridges shall have been put in order by said company; further, it shall be the duty of said Commissioners to visit said road and bridges twice a year, for which they shall each receive two dollars per day, to be paid by said company.

Sec. 7. That if any person traveling on said road, or crossing said bridges, shall wilfully go around said toll-gate, for the purpose of evading the payment of the toll levied by this act, he shall forfeit and pay the company five dollars, and costs of suit for every offence; to be recovered before any Justice of the Peace in whose jurisdiction such person may be found. This act to take effect from and after its passage.

Approved, January 21, 1852.

## CHAPTER LXIV.

**An Act for the relief of the Heirs of Andrew J. Harrison, who died while in the army under the command of Capt. J. W. Fannin.**

Section 1. Be it enacted by the Legislature of the State of Texas, That the Adjutant General be, and he is hereby authorized to issue to the heirs of Andrew J. Harrison, a bounty land warrant for three hundred and twenty acres, for his services in the army of Texas.

Sec. 2. That this act take effect from its passage.

Approved, January 21, 1852.

## CHAPTER LXV.

**An Act granting to the Heirs of Daniel W. Cloud and Peter J. Bailey, respectively the amounts of headright and bounty land to which they are entitled by said Cloud and Bailey's emigration to, services and death in the service of the country.**

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office and Adjutant General be, and they are hereby severally authorized to issue to the heirs of said Daniel W. Cloud and Peter J. Bailey, respectively, or their legally authorized agent, to the heirs of each, one certificate for one-third league of land, and to the heirs of each, a bounty land warrant of six hundred and forty acres, for six month's services in the army of Texas, and a donation land warrant of six hundred and forty acres for being killed in the Alamo, in the service of the country; in all to the heirs of each party, twenty-seven hundred and fifty-six acres; provided, said lands shall not have been previously issued to, or in the name of, or for the benefit of said heirs.

Sec. 2. That said lands shall be surveyed and patented as in other cases, but for the sole use and benefit of the said heirs of said Daniel W. Cloud and Peter J. Bailey.

Sec. 3. That this act take effect from and after its passage.

Approved, January 28, 1852.

CHAPTER LXVI.

An Act for the relief of the Heirs at law of Joseph Bayliss, who was killed at the Alamo.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office and the Adjutant General of the State of Texas, be, and they are hereby severally authorized to issue to the heirs at law of Joseph Bayliss, deceased, a certificate for one-third league of land, the headright of said Bayliss; also, a bounty land warrant of six hundred and forty acres, for six month's enlistment in the army of Texas, and a donation land warrant, for six hundred and forty acres, for being killed in the Alamo; in all twenty-seven hundred and fifty-six acres.

Sec. 2. That said land shall be surveyed and patented as in other cases, but for the sole benefit of the heirs of said Joseph Bayliss, and no other person.

Sec. 3. That this act take effect from and after its passage.

Approved, January 28, 1852.

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CHAPTER LXVII.

An Act for the relief of Luther T. M. Plummer.

Section 1. Be it enacted by the Legislature of the State of Texas, That the headright league of land granted to L. T. M. Plummer, as a colonist of Robertson's colony, located on the east side of the Navisota river, in Limestone county, be, and the same is hereby declared valid to all intents and purposes, as if the same had actually been made in the proper limits of the aforesaid colony: provided, that the confirmation hereby made shall not interfere with the legal rights of parties not named in this act.

Sec. 2. That this act take effect from and after its passage.

Approved, January 28, 1852.

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CHAPTER LXVIII.

An Act for the relief of Christopher Troutz.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Auditor and Comptroller be, and they are here-

by authorized to issue to Christopher Troutz, a duplicate for three hundred and twenty-five dollars and seventy-five cents, in the form of the original certificate, No. six hundred and fourteen, second class, issued on July twenty-sixth, eighteen hundred and fifty, for his services on the Santa Fe expedition, upon his filing with said Auditor satisfactory proof, in writing, that the original has been destroyed.

Sec. 2. That this act take effect from its passage.

Approved, January 28, 1852.

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## CHAPTER LXIX.

### An Act for the relief of Julia Buchannan.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to Julia Buchannan, a patent for Lot No. six, in Block number eighty-eight, in the City of Austin, according to the plat of said city; and that this act take effect from and after its passage.

Approved, January 28, 1852.

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## CHAPTER LXX.

### An Act for the relief of Peter C. Harness, Wylie Morse and Ambrose Bass, or their assigns.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office is hereby authorized to issue to Peter C. Harness, Wylie Morse and Ambrose Bass, or their assigns, three certificates for a league and labor of land each, upon the payment of all dues and charges thereon by the said Harness, Morse and Bass, or their assigns.

Sec. 2. This act shall take effect from its passage.

Approved, January 28, 1852.

CHAPTER LXXI.

An Act for the relief of Martha C. Lee, alias Martha C. Quirl, confirming the certificate issued to her by the Board of Land Commissioners of Grimes county, for six hundred and forty acres of land, to which she was entitled, but on which a patent cannot issue, because of the destruction by fire of the records of the Land Board of Grimes county.

Section 1. Be it enacted by the Legislature of the State of Texas, That the certificate for six hundred and forty acres of land, issued to Martha C. Lee, alias Martha C. Quirl, issued by the Board of Land Commissioners of Grimes county, be, and the same is hereby confirmed so that a patent may issue for the land surveyed under the same, as in other cases.

Sec. 2. This act to take effect from and after its passage.

Approved, January 28, 1852.

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CHAPTER LXXII.

An Act to incorporate the Town of Mount Vernon, in Titus county.

Section 1. Be it enacted by the Legislature of the State of Texas, That the citizens of the town of Mount Vernon, in Titus county be, and they are hereby declared a body corporate and politic, under the name and style of the corporation of, the town of Mount Vernon, and by that name may sue and be sued; plead and be impleaded; and may hold and dispose of real and personal property within the limits of said corporation.

Sec. 2. That it shall be the duty of the citizens of said corporation to elect a Mayor, five Aldermen, a Secretary, a Treasurer, a Collector and Constable. The Treasurer and Collector shall make reports when required by the Mayor's warrant, and shall give bond and security in such sum as the said Mayor and Aldermen may think proper, payable to the Mayor and Aldermen of the corporation of the town of Mount Vernon and their successors in office; and the Constable shall perform all the duties required of him by the by-laws of said corporation, and shall give bond and security as required of Treasurer and Collector.

Sec. 3. That the said Mayor, whenever he shall deem it ne-

cessary to suppress riots and disturbances, may call out the posse comitatus of said town, for the purpose of restoring order.

Sec. 4. That no person shall be eligible to hold any office in said corporation, or to vote for the officers thereof, unless he be a qualified elector as required by the laws regulating elections, and be a resident citizen within the limits of said corporation.

Sec. 5. That the first election shall be held by the first class Justice of the Peace of the precinct including said town of Mount Vernon for the officers of said corporation, after having given ten days notice thereof, posted up at some public place in said town; and shall be held annually thereafter by the Mayor, giving always ten days notice as aforesaid.

Sec. 6. That in case of the death, resignation or removal of either of the officers of said corporation, the vacancy shall be filled by election as aforesaid; provided, however, that when the vacancy shall be in the office of Mayor, the Board of Aldermen, or a majority thereof shall order the election; that all the officers of said corporation shall hold their offices until their successors are duly qualified.

Sec. 7. That it shall be the duty of the Aldermen, to pass such rules and ordinances from time to time, for the regulation of the police and preservation of good order within the corporation limits as they may think necessary; to levy taxes for the removal of nuisances, and for keeping the streets of said town in good repair, and to prescribe the penalties for all offences against the by-laws of said corporation; provided, however, that no tax shall be laid unless by the consent of two-thirds of the Aldermen present, and be assessed according to the value of property.

Sec. 8. That when a meeting is called for the purpose of assessing taxes, the object must be stated in the notice therefor, and said taxes shall not exceed one-half of one per cent. in any one year.

Sec. 9. That the said corporation of the town of Mount Vernon shall be one mile square, and the present public square, according to the map and plan of said town, be the centre thereof.

Sec. 10. That the corporation shall cause a copy of all their by-laws, to be kept in a book for that purpose, which by-laws shall be written in a plain legible hand, and shall be subject to the inspection of the citizens of said town whenever required.

Sec. 11. That said Justice of the Peace shall order the election provided for in the fifty section of this act, as soon as he shall be furnished with an approved copy of the same.

Sec. 12. That all offences against the by-laws be presented before the Mayor, and governed by the laws organizing Justices courts, and the [Constable] shall execute and return all writs issued by the Mayor as is provided by law defining the duties of Constables.

Sec. 13. That the Mayor and Constable shall be allowed such fees as may be allowed Justices of the Peace and Constables for similar services, together with such other compensation as may be allowed them by a majority of the Aldermen present at the time of such allowance; that the other officers of said corporation shall receive such compensation as may be allowed them by the by-laws; provided, that in no case shall more than two dollars be allowed per day to the Aldermen for each day required to set as such Aldermen.

Sec. 14. That this act take effect and be in force from and after its passage.

Approved, January 28, 1852.

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#### CHAPTER LXXIII.

An Act to incorporate the Town of Centreville, in Leon county.

Section 1. Be it enacted by the Legislature of the State of Texas, That the citizens of the town of Centreville, in Leon county, be and are hereby declared a body politic and corporate, under the style of the town of Centreville, and by that name may sue and be sued in all courts and suits whatever; and by that name may purchase, hold and convey any real or personal estate within the limits of said town, and may have a corporate seal.

Sec. 2. That all that tract of land which belongs to, and comprehends the town of Centreville, shall be the limits of this corporation.

Sec. 3. That all persons who are qualified voters under the constitution of the State, and are citizens of the town of Centreville, shall be authorised to vote in elections held in said town.

Sec. 4. That an election shall be held in said town on the first Monday of December of each and every year, for a Mayor, five Aldermen, Constable, Secretary and Treasurer. The first election shall be ordered by the Chief Justice of Leon county, to be held as soon as practicable after the passage of this act, and every subsequent election shall be ordered by the

Mayor and any two Aldermen, and if there be no Mayor, shall be ordered by any three Aldermen.

Sec. 5. All officers elected by order of the Chief Justice shall hold their office until the annual election, and all officers elected by order of the Mayor and Aldermen, or Aldermen, shall hold their office for one year, and in case of elections to fill vacancies, the officers so elected shall hold their offices until the next annual election; provided, however, that all such officers so elected, shall hold their offices until their successors are qualified.

Sec. 6. That no person shall be eligible to any of said offices who is not a citizen of said town.

Sec. 7. That the Mayor shall be President of the board of Aldermen, that the Mayor and four Aldermen of said board shall constitute a quorum for the transaction of business; and that the said board may enact such by-laws for the government of said town, not inconsistent with the constitution and laws of the State, and as may be deemed proper, and inflict such fines not exceeding one hundred dollars, as may be considered necessary.

Sec. 8. That the Board of Aldermen shall have control over the streets of said town; may order new streets to be laid out, and old ones discontinued at their discretion; provided, however, that no new street be opened or old one discontinued, except by unanimous consent of the board, and the board shall be governed in such acts by the laws of the State relative to roads and highways.

Sec. 9. That all free males, between the ages of twenty-one and forty-five years, shall be liable to work the streets; that such persons shall not be compelled to work more than ten days in any one year, and the board shall impose such fines on defaulters, as they may deem necessary, in which they shall be governed generally by the law of the State.

Sec. 10. That the board shall have power to levy a tax on all persons and property, both real and personal, in said town of Centreville, subject to taxation by the laws of the State; provided, that tax on property shall not in any year exceed one per cent. ad valorem on such property, and to be levied at the beginning of each year, and shall be assessed and collected by an officer to be appointed by the board, in the same manner as the State tax is collected; and the board shall have power to levy a tax on all taverns, tipling-houses, billiard-tables and tenpin-allies in said town.

Sec. 11. That the Board of Aldermen shall have power to



appoint such officers, fix their duties and salaries, and remove them for their defaults or violation of duty, as said board shall think proper; and all such officers may be required to give bond with security to the Mayor, in such penalty as may be deemed requisite, and shall also be liable to such fines as may be imposed for neglect of duty.

Sec. 12. That the Board of Aldermen shall have power to regulate its own proceedings, and to prescribe the duty of all the officers of the corporation, not inconsistent with the laws of the State; and shall have power to enact all ordinances necessary for the peace and welfare of said town, not contrary to law.

Sec. 13. That the Mayor shall have jurisdiction, and exercise the powers conferred by law on justices of the peace in criminal cases, and over all offences, defaults and violations of duty committed against the ordinances and decrees of the Board of Aldermen, within the limits of the corporation.

Sec. 14. That all offences against, and violations of the ordinances aforesaid, shall be prosecuted before the Mayor in such manner as is required by law, in the acts organising Justices courts, and defining the powers and jurisdiction of the same; and the Constable shall execute all writs directed to him by the Mayor.

Sec. 15. All elections shall be held in accordance with the laws regulating elections.

Sec. 16. That the Constable, Secretary and Treasurer, shall give bond and security for the faithful performance of their duty, to be approved by the Board of Aldermen.

Sec. 17. That the Board of Aldermen shall make such compensation to the Mayor, and allow him such fees as may be deemed proper.

Sec. 18. That the Treasurer shall keep safely all the money of said corporation; shall pay out the same to the order of the Board of Aldermen, and shall perform such other duties as shall be assigned by the by-laws, and shall give bond and security payable to the Mayor, in such sum as may be deemed proper by the board, conditioned for the faithful performance of his duties, which shall be approved by the Board of Aldermen, and shall receive such fees as shall be provided for by the by-laws of said corporation.

Sec. 19. That the inhabitants of said town may at any time, a majority of the electors concurring, extend their corporate limits, not exceeding half a mile from their present limits; provided, the owners of the additional territory shall consent thereto.

Sec. 20. That if any person elected or appointed to office under this charter, fail to qualify within ten days after his election or appointment, the board shall have power to declare the office vacant, and order another election.

Sec. 21. That all officers shall, before entering on the duties of their respective offices, make oath to faithfully perform the duties of their respective offices.

Sec. 22. That elections shall be ordered to be held at least ten days before the expiration of the term of the office of the officer designated by this charter.

Sec. 23. That all contests in elections shall be determined by the Board of Aldermen; provided, however, that the elections held by order of the Chief Justice of Leon county, shall, if contested, be determined by the county court of said county.

Sec. 24. That the books and records of said corporation shall at all times be open to the inspection of any citizen of said town.

Sec. 25. And that this act take effect from and after its passage.

Approved, January 29, 1852.

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#### CHAPTER LXXIV.

##### An Act to incorporate the town of Clarksville, in Red River County.

Section 1. Be it enacted by the Legislature of the State of Texas, That the citizens of the town of Clarksville, in Red River county, be, and they are hereby created and declared a body politic and corporate, by the name and style of "the corporation of the town of Clarksville;" and by that name may sue and be sued, plead and be impleaded, and may hold and dispose of property, both real and personal, within the limits of said corporation.

Sec. 2. That the corporate limits of said town shall be as follows: commencing at a point upon the line of a survey made for W. H. Vining, due west of the courthouse; thence north six hundred yards; thence east twelve hundred yards; thence south to the point where a south line would intersect the line of Thomas J. Richie; thence westwardly with said Richie's line to a point in the line of said Vining's survey; thence with said line to the place of beginning.

Sec. 3. That the Chief Justice of Red River county shall order an election to be held on the first Monday in March, 1852, and every two years thereafter, for a Mayor, Constable, and eight Aldermen; which election shall be conducted as other elections, and the persons elected shall continue in office for two years, or until their successors are duly qualified. The Mayor shall receive a commission, and be qualified as a Justice of the Peace of said county; he shall enforce and carry into effect all such by-laws and ordinances as the corporate council of said town shall, from time to time, ordain and establish for the better regulation thereof, not contrary to the constitution or the spirit of this charter; he shall be entitled to the same fees as are allowed by law to justices of the peace, and to such additional compensation as the Board of Aldermen may deem proper; he shall hold his courts on the second Saturday in each month; provided, nothing herein contained shall be so construed as to prevent said Mayor from holding a court at any other time for the trial and punishment of offenders against the by-laws or ordinances of said town; he shall be President of the Board of Aldermen, and in case of vacancies therein, shall order new elections to be held.

Sec. 4. That the Constable of said town shall give bond and security for the faithful discharge of his duties, and be qualified in all other respects as a Constable for said county; he shall have the same jurisdiction and be entitled to the same fees; he shall execute all writs directed to him by the Mayor, and shall do and perform all acts required of him by the corporate council of said town.

Sec. 5. That the Board of Aldermen shall have power to enact such by-laws and ordinances as they may deem proper for the government of said town; may appoint such officers as they may consider necessary, subject to removal at the pleasure of the board, regulate their compensation; may levy a tax on all property within the limits of said corporation, both real and personal, not to exceed one per cent. ad valorem, and may collect the same; and a majority of said board shall constitute a quorum to do business; they shall have power to levy and collect a license tax on all tipling-houses, billiard-tables, nine or tenpin-allies, and on all mercantile and grocery establishments in said town; said taxes when collected, to be applied to the support of said corporation and the improvement of said town; they shall have power to prescribe by ordinance the mode of collecting taxes due said corporation, not contrary

to the constitution, and shall exercise a general control over the financial affairs of said corporation, the alleys and streets and the public works and buildings within the limits of said town, as specified in the second section of this act.

Sec. 6. That all free males between the ages of eighteen and forty-five years, and all male slaves between sixteen and sixty years of age, shall be liable to work on the streets of said town, they shall not be compelled to work more than ten days in each year, and they shall be exempt from all road duty within the limits of said county of Red River; and for a failure or refusal to work on the streets of said town when warned so to do, they shall be liable to the same penalties prescribed by law for a failure to work on roads.

Sec. 7. That all laws heretofore enacted in relation to said corporation are hereby repealed, and this act shall take effect from and after its passage.

Approved, January 31, 1852.

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## CHAPTER LXXV.

An Act changing the names of Antoinette Scott and Sidney Way.

Section 1. Be it enacted by the Legislature of the State of Texas, That the names of Antoinette Scott and Sidney Way, be, and they are hereby changed to Antoinette Devereaux and Sidney Devereaux.

Sec. 2. That the said Antoinette Devereaux and Sidney Devereaux be, and they are hereby declared capable in law of inheriting the property of their father, Julien S. Devereaux, in the same manner as if they had been born in lawful wedlock; and that this act take effect and be in force from and after its passage.

Approved, January 31, 1852.

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## CHAPTER LXXVI.

An Act to amend the 13th, 16th, and 17th sections of the act to Incorporate the Buffalo Bayou, Brazos and Colorado Railroad Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That sections thirteenth, sixteenth and seventeenth. of

the act to incorporate the "Buffalo Bayou, Brazos and Colorado Railroad Company," approved, February 11th, 1850, be amended so as to read as follows:

"Sec. 13. That said company may acquire by purchase or gift, any real estate the directors shall think desirable in order to promote or hasten the construction of said Railroad; they may borrow money on their bonds or notes at such rates as shall be deemed expedient, and mortgage their property to secure the same; provided, however, that nothing in this act shall be construed to confer banking privileges of any kind.

"Sec. 16. That the sale of town lots in the town of Harrisburg, hereafter made by said company or their agent, shall not be considered binding on the purchaser unless said Railroad shall be in complete and practical operation for the distance of twenty miles, within three years from the passage of said act of incorporation; the sale of the lots to be annulled by a reconveyance of the lots to the company.

"Sec. 17. That if said Railroad is not commenced within one year from the passage of said act of incorporation, and if at least twenty miles are not in running order within three years, then this charter shall be null and void."

Sec. 2. That said extension of time hereby intended to be granted to said company, is granted upon the following conditions: that said company shall be required at all reasonable times and for a reasonable compensation, to draw over their road the passengers, merchandise and cars of any other railroad corporations which have been, or may hereafter be authorised by the Legislature of this State, to enter with their railroad, and connect with the railroad of said company; and if the respective companies or corporations shall be unable to agree upon the compensation aforesaid to be paid, the president of each of said companies shall choose one man as a commissioner, and these two shall select a third man as umpire, neither of whom shall be a stockholder, or employee of either road, but entirely disinterested, and they shall fix the rates which shall not be changed for one year from the time of their going into effect; said commissioners shall also fix stated periods at which said cars are to be drawn as aforesaid, having reference to the convenience and interests of said corporations and the public who will be accommodated thereby. And the State hereby reserves the power to make from time to time, such reasonable regulations for the government of said company as may appear to be

required for the public good, and as may be usual and customary in other States.

Sec. 3. That this act take effect from and after its passage.

Approved, January 31, 1852.

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#### CHAPTER LXXVII.

An Act appropriating a certain Public Building in the City of Austin, for the use of the Supreme Court.

Section 1. Be it enacted by the Legislature of the State of Texas, That the public building now occupied by the Supreme Court, be reserved and set apart for the use of said court, and that in the vacation of said court the clerk shall occupy the same as an office.

Sec. 2. That this act take effect from and after its passage.

Approved, January 31, 1852.

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#### CHAPTER LXXVIII.

An Act for the relief of Brigadier General Edward H. Tarrant.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Comptroller of Public Accounts audit the accounts of Brigadier General Edward H. Tarrant, for the sum of nine hundred and twenty-five dollars in the promissory notes of the late Republic of Texas, and allow a credit for the same in the settlement of the accounts of the said Tarrant; and that this act take effect from its passage.

Approved, January 31, 1852.

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#### CHAPTER LXXIX.

An Act for the relief of William Welch, of Limestone county.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to William Welch, of Limestone county, a certificate for one labor of land, to be located on any of the unappropriated public domain of

this State, subject to the same dues and fees as provided in similar cases.

Sec. 2. That this act take effect from and after its passage.

Approved, February 5, 1852.

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CHAPTER LXXX.

An Act confirming the conditionally recommended headright of William McFarlin, of Red River, to one league and labor, to which it has since been ascertained he is justly entitled, being found, upon running the boundary line between the State of Texas and the State of Arkansas, to have been a resident citizen of Texas, etc., at the date of the declaration of Independence.

Section 1. Be it enacted by the Legislature of the State of Texas, That the headright league and labor certificate of William McFarlin, of Red River county, be and the same is hereby confirmed and declared to be good and valid, from the time it was issued, as if it had been fully recommended by the travelling Board of Land Commissioners, who conditionally recommended the same.

Sec. 2. That this act take effect from and after its passage.

Approved, February 5, 1852.

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CHAPTER LXXXI.

An Act for the relief of the Heirs of Andrew Roach.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office issue to the heirs of Andrew Roach, deceased, a certificate for one league and one labor of land, which said certificate when so issued, may be located upon any of the vacant lands of the State, and upon return to the Land Office of a survey made in virtue thereof, patent shall issue as in other cases.

Sec. 2. This act shall be in force from its passage.

Approved, February 5, 1852.

## CHAPTER LXXXII.

## An Act to Incorporate Lake Creek Bridge and Turnpike Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That Erasmus G. Collier, Braddock Collier, Richard Williss, Peter G. Williss, H. R. Bell, R. B. Martin, William Gilliam and E. J. Arnold, and such other persons as they may associate with themselves, are hereby incorporated under the name of the Lake Creek Bridge Company; that they and their successors or assigns shall constitute a body corporate and politic for the period of twenty years; that, under that name, they shall be competent to contract for, buy, hold, receive and possess all kinds of property that may be necessary to effect the end for which said corporation is created, to sue and be sued, to make all contracts, and to do all things necessary to effect the end for which they are incorporated, to have a corporate seal, to bind themselves with or without seal, and to make their own by-laws, rules and regulations, not conflicting with the provisions of this act, nor with the Constitution and laws of the State.

Sec. 2. That the interest of each member may be sold, transferred, or assigned upon the books of the corporation, and not otherwise.

Sec. 3. That it shall be the duty of said Company, or their assigns, within four years from the passage of this act, to construct a good and substantial bridge across Lake Creek at such point or place on the route from the town of Montgomery to the City of Houston as may be determined on by them, and to erect such embankments, turnpike road or causeway, and construct such bridges across the Creek Swamp, as may be necessary to ensure a safe and speedy passage across said creek and swamp, from the highlands on either side of said creek and swamp, at all stages of the water, and shall keep said road and bridges, when so constructed, in a good state of repair during the aforesaid period of twenty years; and if the County Court of Montgomery county may deem it advisable, they may grant to said company the privilege of building and erecting said bridges, embankments, turnpike and causeway at the place where the road now crosses the same, upon said company indemnifying the county or owners of the bridge now standing across Lake Creek on said road, for the value of the same.

Sec. 4. That it shall be the duty of the County Court of



Montgomery county to appoint three commissioners, whose duty it shall be to inspect said bridges and road, and if said commissioners shall find the same completed in accordance with this act, they shall give said company a certificate of the fact, upon the receipt of which, said company may erect upon said road or bridges a toll-gate, at which they may collect and receive tolls, not exceeding the following rates, viz: for carriages and wagons, twenty cents per wheel, and ten cents per head for the team thereto attached; for man and horse twenty cents; footmen ten cents each; horses and mules ten cents each; cattle five cents per head; hogs and sheep three cents per head; and other things, not enumerated, at the same rates.

Sec. 5. That the commissioners appointed under this act shall hold their offices for the term of one year, and until their successors shall be appointed by the County Court; and it shall be their duty at any time when said road or bridges are out of order and unfit for travel, to direct said toll-gate to be thrown open, and so to continue until said road or bridges shall have been put in complete order by said company. Further, it shall be the duty of said Commissioners to visit said road and bridges twice each year, for which they shall each receive two dollars per day, to be paid by said company.

Sec. 6. That if any person traveling on said road, or crossing said bridges, shall wilfully go around, or through said toll-gate for the purpose of evading the payment of the toll leviable under this act, he shall forfeit and pay to the company the sum of five dollars and cost of suit, for every such violation of their rights; to be recovered before any Justice of the Peace in whose jurisdiction such person may be found.

Sec. 7. Said company, or their assigns, shall have the right to enter upon and take possession of any land that may be necessary for the purpose of said road and bridges; provided, the same shall not exceed one hundred feet of width, by paying the owner or owners of the land, or to the county treasurer for them the price that may be agreed upon, or determined under the provisions of this act, or should the owner or owners be unwilling or unable to contract, or be absent, or be unknown, said company may petition the County Court of the county of Montgomery, and the said Court shall cause a jury of freeholders to be summoned, who, on oath, shall make a report of the value of the land so required by said company; and upon the payment thereof by the company, either to the owners, or to the Treasurer of the county for them, the Chief Justice of said County Court shall make and deliver to said company or

their assigns, a good and bona fide title for the land described in said petition, a copy of which title shall be recorded in the office of the clerk of the County Court of said county of Montgomery.

Sec. 8. If any person or persons shall obstruct or injure in any way said bridges, turnpike, embankments or causeway, or any part of them, such person or persons shall forfeit and pay to said company, any sum adjudged against him or them by any Justice of the Peace or Court having jurisdiction of the same.

Approved, February 9, 1852.

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## CHAPTER LXXXIII.

### An Act to Incorporate Galveston College.

Section 1. Be it enacted by the Legislature of the State of Texas, That an institution of learning be established in the city of Galveston, in the State of Texas, to be denominated Galveston College.

Sec. 2. That there shall be thirty trustees who shall take and have charge of said institution, seven of whom shall constitute a quorum to transact business.

Sec. 3. That the following named persons shall constitute the first trustees of said institution, viz: John B. Jones, E. P. Hunt, Abner S. Lipscomb, E. O. Lynch, George Ball, R. T. Wheeler, Joseph Bates, H. B. Martin, Jeremiah Smith, Lorenzo Sherwood, O. C. Hartley, James W. Moore, John M. Jones, John Robertson, G. H. Delesdenier, N. B. Yard, A. C. Crawford, J. W. Jockusch, Christopher H. Pix, Oscar Farish, Rufus K. Cage, David Ayres, F. H. Merriman, S. L. Jones, E. D. Johns, A. F. James, James P. Cole, Ashbel Smith, Joshua C. Shaw, and Robert D. Johnson.

Sec. 4. That the trustees aforesaid, be, and they are hereby constituted a body politic and corporate, in deed and in law, by the name of the President and Trustees of the Galveston College; and by that name they and their successors shall and may have perpetual succession, and be able and capable in law, to have, receive, and enjoy to them and their successors, lands, tenements and hereditaments of any kind in fee, for life, or for years, and personal property of whatsoever kind; also, all sums of money and whatever else may be given, granted, or

bequeathed to them for the purpose of promoting the interest of said institution; provided, the amount of property owned by said institution, shall not, at any time, exceed the sum of one hundred thousand dollars over and above the necessary buildings, grounds, books and apparatus to carry on said institution.

Sec. 5. That there shall be a stated meeting of said Trustees in each year, at such time as the trustees may determine, and that the President of said board of trustees shall have full power to call an occasional meeting of the board whenever it shall appear to him necessary.

Sec. 6. At the first meeting of the trustees, of which ten days public notice shall be given, and at every annual meeting thereafter, one of said trustees shall be elected by ballot to act as President of the board of trustees for the ensuing year; and one to act as Secretary; provided, that in case of failure to elect at such time, the election may take place at a special meeting, to be called by any seven trustees, of which five days public notice shall be given.

Sec. 7. That the said board of trustees of said College shall and may have a common seal, for the business of themselves and their successors; and that by their aforesaid name, they and their successors shall and may be able to sue and be sued; plead and be impleaded; answer and be answered; defend and be defended in all courts of law and equity in this State; and to grant, bargain, sell and assign any lands, tenements, goods or chattels belonging to said institution; to construct all the necessary buildings; to establish preparatory and female departments, and all such other departments connected with the said institution as they may deem necessary; to have the management of the finances, and the privilege of electing their own officers; of appointing all necessary committees, and to act, and do all things whatsoever for the benefit of the said institution, in as ample a manner as any body corporate or politic, may by law do.

Sec. 8. That the said trustees shall have the power of prescribing the course of studies to be pursued by the students, and of framing and enacting all such ordinances and by-laws as shall appear to them necessary for the good government of said institution; provided, the same be not contrary to the constitution and laws of the State of Texas.

Sec. 9. That whenever any vacancy shall occur in the board of Trustees, either by death, resignation, or otherwise, such vacancy shall be filled by the board of trustees.

Sec. 10. That the head of said College shall be styled the

President, and the instructors thereof, the Professors; and the President and Professors, or a majority of them, the Faculty of said institution; which faculty shall have the power of enforcing the ordinances and by-laws adopted by the trustees for the government of the students, by rewarding or censuring them; and, finally, by suspending such as shall continue disobedient, after repeated admonitions, until a determination of a quorum of the trustees can be had; the power of expulsion shall rest with the trustees alone, at a stated meeting.

Sec. 11. That the trustees shall, by the President and Professors, have power to grant and confer such degrees in the arts or sciences upon any of the students of said College, as by them may be thought worthy, as are usually granted or conferred in other similar institutions, and to give diplomas thereof, signed by them and sealed with the common seal of the trustees of the College, to authenticate the memory of such graduations.

Sec. 12. That all necessary officers of said institution shall be appointed by a majority of the board of trustees.

Sec. 13. That whenever a vacancy shall occur in the Presidency, or any of the Professorships of this institution, the board of trustees shall have the power to fill such vacancy.

Sec. 14. That the trustees shall have the power of fixing the salaries of all the officers connected with the institution, or of removing any of them for neglect, incompetency or misconduct in office, a majority of the board of trustees concurring in said removal.

Sec. 15. That this institution shall be purely literary and scientific, and the students of all denominations of christians shall enjoy equal advantages and privileges.

Sec. 16. That the lands, public buildings, and other property belonging to said institution, at any time, shall be exempt from any public taxation.

Sec. 17. That this act of incorporation shall be deemed and held a public act, and judicially taken notice of without special pleading.

Sec. 18. That no misnomer of the said institution shall defeat, annul or invalidate any gift, grant, devise or bequest to the same.

Sec. 19. That the Professors of said institution shall not be eligible to act as trustees for the same, and in case any of the trustees shall be employed to discharge any of the duties in and about the institution, he or they shall resign their station as

trustee or trustees before entering on the duties assigned him or them.

Sec. 20. That this act shall be and remain in force ninety-nine years.

Sec. 21. That this act shall take effect from the date of its passage.

Approved, February 9, 1852.

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#### CHAPTER LXXXIV.

An Act for the relief of Willim Cummins, Robert T. Hughs and Reuben Crawford.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to William Cummins, Robert T. Hughs and Reuben Crawford, each a certificate for three hundred and twenty acres of land; which certificates shall be located, surveyed and patented, as in other cases of third class certificates; and that this act take effect and be in force from and after its passage.

Approved, February 9, 1852.

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#### CHAPTER LXXXV.

An Act to Incorporate the Clarksville and Mount Pleasant Turnpike Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That a company be, and is hereby incorporated under the name and style of "the Clarksville and Mount Pleasant Turnpike Company," to be governed by the rules and regulations hereinafter mentioned, and that said company shall constitute a body corporate and politic for the period of thirty years. And that said company under the name of the President and Secretary thereof, shall be competent to contract for, buy, receive, hold and possess all kinds of property that may be necessary to effect the end for which said company is incorporated; to sue and be sued in the name of the President and Secretary of said corporation; and to have a corporate seal;

to bind said company with or without seal; and that said company shall have power to make their own by-laws and regulations not conflicting with the provisions of this act, nor with the constitution and laws of this State.

Sec. 2. That said company shall have the right to make bridges across the Sulphur Fork of Red River and White Oak and Cuthand's creeks, on a road leading from Clarksville, in Red River county, to Mount Pleasant in Titus county, said road to be laid off and surveyed by said company, and the sites for said bridges on said streams to be selected by said company, and also the right to construct bridges on the main sloughs in the bottoms of said streams, and to construct a turnpike road through said bottoms.

Sec. 3. That it shall be the duty of said company within four years after the passage of this act, to construct good and substantial bridges across the Sulphur Fork of Red River and White Oak and Cuthand's creeks, on the road above designated; and good and substantial bridges across the main sloughs in the bottoms between the main bridges and bluffs of said streams, and shall throw up a turnpike across said bottoms between said bridges and bluffs on said streams, the whole to be above overflows; and shall keep said bridges and road when so constructed in a good state of repair during the aforesaid period of thirty years.

Sec. 4. That on the first day of April, eighteen hundred and fifty-two, books for stock in said road shall be opened at the offices of the clerks of the county courts of Red River and Titus counties, when and where any citizen or citizens of this State may subscribe the number of shares he will take in the stock in said road, the shares being estimated at twenty five dollars each, and as soon as two hundred shares are taken, it shall be the duty of the said clerks of said county courts, to cause notice thereof, to be given to the stockholders, in some newspaper printed in one of said counties, and notifying said stockholders to meet at the courthouse in Clarksville on some specified day, not less than ten, nor more than twenty days thereafter.

Sec. 5. That upon the day appointed, the said stockholders shall meet and choose a President, Secretary and such other officers as they may deem necessary; and the regulations and by-laws of said company shall be recorded in the clerks offices of the counties of Red River and Titus, after which they shall be considered a body corporate, and may sue and be sued by said President and Secretary being plaintiffs or defendants, as the case may be.

Sec. 6. That the stockholders shall have the privilege of voting agreeable to the number of shares they may own, and may vote by proxy.

Sec. 7. The interest of each stockholder may be sold, transferred or assigned upon the books of the corporation, but not otherwise.

Sec. 8. That said company shall have the exclusive occupancy of the vacant lands in the bottoms of the aforesaid streams from the main channel to the bluffs, for the distance of eighty rods on each side of said road, with the privilege of using the timber thereon for the construction of said bridges and road, and the keeping of the same in repair.

Sec. 9. That it shall be the duty of the county court of Red River county, at the request of said company, to appoint three commissioners, whose duty it shall be to inspect said bridges and road, and if said commissioners shall find the same completed in accordance with this act, they shall give said company a certificate of the fact; upon the receipt of which the company may erect upon any of said bridges on said Sulphur Fork, or on any portion of said road, within one half mile of the bottom of said Sulphur Fork, a toll-gate, at which they may collect and receive toll, not exceeding the following rates, viz: for all carriages or wagons, twenty cents per wheel, and five cents per head for the team thereto attached; for man and horse, twenty cents; footmen, five cents; loose horses and mules, five cents; cattle per head, five cents; hogs and sheep, two and one-half cents each; and on receipt of the certificate of said commissioners, said company may erect two toll-gates, one at or near any of the bridges on White Oak or its bottom, and one at or near any of the bridges on Cuthand or its bottom, at each of which gates they may collect and receive toll, not exceeding the following rates: ten cents per wheel on all carriages and wagons, and five cents per head for the teams attached thereto, and ten cents for man and horse, and five cents for loose horses and mules, and two cents for cattle per head, and one cent for sheep and hogs each, and other things not above enumerated, at the same rates.

Sec. 10. That the commissioners appointed under this act shall hold their offices for the term of one year, and until their successors are appointed by the court aforesaid; and it shall be their duty at any time when said road or bridges are out of order and unfit for travel, to report the same to the county court of Red River county, and if said report is sustained, said court shall direct said toll gates to be thrown open and so continue un-

til said road and bridges shall have been put in order by said company; further, it shall be the duty of said commissioners to visit said road and bridges twice a year, for which they shall each receive two dollars per day, to be paid by said company.

Sec. 11. That if any person travelling on said road or crossing said bridges, shall wilfully go around said toll-gates for the purpose of evading the toll levied by this act, he shall forfeit and pay to the company five dollars and costs of suit for every such offence, to be recovered before any Justice of the Peace in whose jurisdiction said person may be found.

Sec. 12. That no road of a similar character shall be constructed on a parallel line with said road, within six miles of the same, so long as said road shall be kept in good order.

Sec. 13. That this act take effect from its passage.

Approved, February 9, 1852.

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#### CHAPTER LXXXVI.

##### An Act for the relief of Julian Sanchez.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to Julian Sanchez, a certificate for one league and labor of land, which certificate shall be located, surveyed and patented as other first class headright certificates; and that this act take effect and be in force from and after its passage.

Approved, February 9, 1851

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#### CHAPTER LXXXVII.

##### An Act to Incorporate the Chappell Hill Male and Female Institute.

Section 1. Be it enacted by the Legislature of the State of Texas, That R. J. Swearingen, W. L. Tunstall, William Kesee, Arthur A. Hammond, Thomas Wooldridge, E. D. Little, T. J. Jackson, Thomas B. White, William Chappell, W. B. Traynham and William A. Browning, and their successors in office be, and they are hereby constituted a board of Trustees of a Collegiate Institute, in or near the town of Chappell Hill, in



Washington county, to be known as the "Chappell Hill Male and Female Institute;" by which name they may sue and be sued, plead and be impleaded; buy, sell and hold property, real and personal, and mixed; the said trustees may have and use a common seal for the transaction of its business.

Sec. 2. A majority of the Trustees shall constitute a quorum to transact all the ordinary business of the said institute; they shall have power to elect their own officers, and to make their own by-laws; provided, such by-laws are not inconsistent with the provisions of this charter, or the laws or constitution of the State of Texas; and, further provided, that it shall require the concurrence of two-thirds of said trustees to elect or remove the President, or any one of the Professors.

Sec. 3. The institute shall have power to confer the usual degrees, upon men distinguished in science and literature, and upon deserving students, and to grant diplomas for the same; provided, that such diplomas shall be first signed by a majority of the faculty of said institute.

Sec. 4. The said trustees shall have the power of fixing the salaries of all officers connected with the institute, and of filling all vacancies which may occur in their own body.

Sec. 5. No religious test shall ever be required of any President, Professor or Tutor in said institute; nor shall any student or officer be censured, suspended, or expelled on account of his political or religious opinions; provided, that the trustees of said institute shall not be prohibited from providing for the infliction of suitable punishment for immoral conduct.

Sec. 6. All donations and bequests made to said institute shall be good and binding, notwithstanding the misnomer of said institute, by the party making the bequest or donation.

Sec. 7. The said institute shall not hold real estate exceeding one hundred thousand dollars in value; and it shall never be under the control of any particular denomination of christians or religious sect.

Sec. 8. This act shall take effect from its passage.

Approved, February 9, 1852.

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## CHAPTER LXXXVIII.

An Act for the relief of the Heirs of Felix A. Richardson, dec'd.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be,

and he is hereby authorized and required to issue to the heirs of Felix A. Richardson, deceased, a certificate for one league and labor of land; which certificate shall be located, surveyed and patented as other first class headright certificates; and that this act take effect and be in force from and after its passage.

Approved, February 9, 1852.

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#### CHAPTER LXXXIX.

##### An Act for the relief of Thomas P. Crosby.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to Thomas P. Crosby, a certificate for one league of land, which may be located upon any of the vacant and unappropriated public domain of the State.

Sec. 2. That this act shall take effect and be in force from and after its passage.

Approved, February 9, 1852.

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#### CHAPTER XC.

##### An Act for the relief of John B. Thacker and Michael Short.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Treasurer of the State on the warrant of the Comptroller, shall pay semi-annually in advance, for the term of two years, out of any money in the Treasury not otherwise appropriated, to John B. Thacker and Michael Short each, or their legally authorized representatives, the sum of fifty dollars.

Sec. 2. This act shall take effect and be in force from and after its passage.

Approved, February 9, 1852.

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#### CHAPTER XCI.

##### An Act for the relief of Samuel B. Brigham, administrator of Asa Brigham, deceased.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Comptroller be, and he is hereby authorized and required to cancel and pass to the credit of Sam Houston,

in his account with the late Republic of Texas, the sum of two thousand seven hundred and seventy-six dollars and twenty-three cents, the same being in satisfaction of that amount of the deficiency, found to exist against Asa Brigham, deceased, Treasurer of the late Republic of Texas, upon an examination of the account books and vouchers of said deceased, with Sam Houston, for money or warrants drawn and deposited by him as President of said Republic; and that this act take effect from and after its passage.

Approved, February 9, 1852.

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## CHAPTER XCII.

### An Act to Incorporate the Brazos Plankroad Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That Francis Moore, jr., and his associates, and successors, and assigns be, and they are hereby incorporated under the name and style of the Brazos Plankroad Company; and under this title they may transfer their rights in succession or assignment, and shall be capable of suing and being sued as persons, pleading and being impleaded, answering and being answered unto, defending and being defended in all courts and places whatsoever; and that they and their successors may have a common seal, and change and alter the same at pleasure; and, also, that they and their successors by the same name and style, shall be capable of holding, purchasing and conveying any real estate, or personal or mixed estate, for the use of said company; and in doing and performing all things which are necessary and common for companies of a similar character to do, not contrary to the provisions of this charter, the constitution of this State, and that of the United States.

Sec. 2. That said company shall have the right to construct a Plankroad or causeway through the Brazos bottom, and also, to establish a ferry across the Brazos river; provided, that said ferry shall not be established within one mile of any ferry now established, unless with the full consent of the owner or renters of such ferry, or without the consent of the county court; and the said company shall have the right to erect toll-gates, and to charge tolls to be established by said company, and subject to be regulated by law.

Sec. 3. Said company shall have the right to enter upon and take possession of any land that may be necessary for the pur-

poses of said road; provided, the same shall not exceed one hundred feet in width, by paying the owner or owners of the land whatever price may be agreed on, or should the owner or owners be unwilling or unable to contract, or be absent or unknown, said company may petition the county court of the county in which such land may be situated, and the said court may cause to be summoned a jury of six freeholders of said county, who on oath shall make a report of the value of the land so required, and upon the payment thereof by the company, either to the owners or the county treasurer, a good and bona fide title shall be granted by the Chief Justice of the county court; a copy of which shall be recorded in the office of the county clerk of the county in which such lands are situated.

Sec. 4. The President and Directors of said company, shall have authority to adopt all such rules, regulations and by-laws, as they may consider necessary to effect the objects contemplated by this act of incorporation.

Sec. 5. If any person or persons shall obstruct or injure in any way said plankroad or causeway, or any part thereof, such person or persons shall forfeit and pay to said company any sum adjudged against him or them by any Justice of the Peace, or court having jurisdiction of the same; and if any person shall pass round or through said toll-gate or gates with intent to evade the payment of toll, he, she or they shall for every such offence forfeit and pay to said company three times the amount of toll established by said company, recoverable before any Justice of the Peace.

Sec. 6. The President and Directors of said company shall have full power to borrow money upon the faith of this charter, and to hypothecate the stock or other property, real, personal or mixed, and to issue certificates for the payment of the same, and to do all things needful and proper to carry out the provisions of this act; provided, the capital stock shall not exceed one hundred thousand dollars; and the said road shall be commenced within two years, and completed within five years.

Sec. 7. This charter shall take effect from its passage, and be in force twenty-five years; and said company shall keep such plankroad or causeway in good repair, and in case of neglect so to do, shall forfeit all tolls while the same remains unrepaired.

Approved, February 9, 1852.

CHAPTER XCIII.

An Act for the relief of James Frazor.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office of the State of Texas be, and he is hereby authorized and required to issue to James Frazor, a land patent for six hundred and forty acres of land, located by virtue of second class headright certificate, number sixty-three, issued to said Frazor by the board of Land Commissioners of Red River county, on the 7th day of September, 1841, under the same rules and regulations governing the issuance of patents in similar cases; and that this act take effect and be in force from and after its passage.

Approved, February 9, 1852.

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CHAPTER XCIV.

An Act to amend the charter of the Town of Goliad.

Section 1. Be it enacted by the Legislature of the State of Texas, That the charter of said town shall be as herein stated, and the citizens thereof shall continue to be a body politic and corporate, by the name of "the town of Goliad."

Sec. 2. That the boundaries within which the corporate authorities shall exercise jurisdiction, shall continue to be those of the four leagues of land granted to the town by the late Republic of Texas, by patent dated twenty-fifth of October, eighteen hundred and forty-four.

Sec. 3. That all persons and only those, who may be qualified voters in general State elections, being citizens of the town, having resided therein during the six months immediately preceeding, and not in default for town taxes, shall be electors in any election, and eligible to any of the offices of the corporation.

Sec. 4. That the officers to be elected by the qualified electors, shall be a Mayor, a Recorder, seven Aldermen, a Marshal and a Treasurer, who shall enter on the duties of their offices respectively only on the terms prescribed in the constitution for officers generally, and on the terms specially provided for herein; there shall be a common council, to consist when full of the Mayor, Recorder, Aldermen and Marshal, of which the Mayor, or in his absence, the Recorder shall be President, but a majority of the whole number of Aldermen with the President may

constitute a quorum, and the President shall vote only in cases of equal division among the Aldermen present and voting; the Recorder shall be secretary of the common council, but in his absence or when he is president, the board may appoint any one of its members to perform that service; the Marshal shall perform the duties of such an officer, and those of collector of taxes, and he may appoint such number of deputies as the common council may authorize; the Treasurer shall perform the duties of such an officer, and those of assessor of taxes.

Sec. 5. That the regular time for electing said officers shall be the first Monday of January, annually, but a general election shall be held under this charter as soon as practicable; if any officer shall die, resign, remove from the town, or be disqualified to hold office under the general laws of the State, or if any person shall fail to qualify within ten days after he shall have been declared duly elected, the office shall be considered vacant, and all vacancies shall be filled by elections to be held without delay, said officers may continue to act in their several capacities until their successors shall have been qualified.

Sec. 6. That the elections shall be regulated as near as practicable by the general law regulating elections, from time to time, except that contests shall be determined by the common council, but if there should not be such a board regularly organized at the time of any contest, or if a majority of the whole number of Aldermen should be interested in it, the contest shall be determined by the county court of Goliad county.

Sec. 7. That as the common council may prescribe, the Marshal and Treasurer each shall give bond with sureties to the corporation for the performance of his duties before entering thereon, and may be required thereafter to renew and modify his bond, on five days notice in writing delivered to him personally, or left at his last usual place of residence or business, and after such notice, until such bond shall be given, he shall be suspended from acting as such officer, and on his failure to comply with such requisition, his office shall be vacant on a declaration by the common council to that effect; and the foregoing provisions of this section shall also extend to any other officer or agent who may be appointed by the common council, and required to give bond.

Sec. 8. That the boards which have acted as corporate authorities of said town, from the organization of such in the autumn of the year eighteen hundred and forty-six, shall be regarded as legal, and their acts as obligatory, so far as they may have con-

formed to the charter of said town, and the general laws of the Republic and State of Texas.

Sec. 9. That the common council shall represent the corporation, using its name and seal in all appropriate business under the charter and not violating any general law; it may enact all necessary and proper ordinances for the government of the town in all respects; it may collect revenue in all the kinds of cases in which the State shall do so from time to time; but the rates shall not exceed one-half of those imposed by the State; and the corporate revenue shall be collected as near as practicable in conformity with the law that may be in force for collecting the State revenue; the common council may acquire and hold any property for public uses, and may improve, sell or otherwise dispose thereof at pleasure; it may collect the prices of any lands of said town sold by the corporate authority since the autumn of eighteen hundred and forty-six, or may acquire the title and control of any part thereof from any purchaser by compromise or by other legal means, or may refund the price with interest on failure of title, and may so act under future sales, and may sell at public auction, on sixty days notice in some newspaper published in this State, any portion that may at the time be unsold of the land heretofore conceded to said town by the late Republic of Texas, except such parts as may hereafter be necessary for a public square, a public cemetery, a courthouse, a jail, a public market, and public highways; the common council shall proceed as fast as practicable, without unreasonably sacrificing the land, to obtain and appropriate the proceeds of former and future sales, to the amount of eight thousand dollars, for the erection of a jail and a courthouse, which shall include necessary clerks offices for the county of Goliad; and on the completion of said courthouse, in a manner suitable for the clerk's offices as well as for other purposes of a court; the common council may dispose of the clerk's office already built with the lot whereon it is situated, as other parts of the trust fund for buildings and education; the remainder of the proceeds of such sales if any, with the unsold parts of said trust land shall be held, sold, exchanged or otherwise used by the common council for the purposes of education within said town, and for no other purpose; and said corporation as a trustee for the proper disposal of said land, and its proceeds to accomplish the purposes aforesaid shall be answerable in the district court of Goliad county at the suit of any party interested; the common council shall have authority as to streets and alleys, to determine where they may be necessary, to fix their bounda-

ries and to improve them, but with liability to any person injured in any such case for damages, which shall be ascertained and paid as in case of ordinary roads, under the jurisdiction of county courts; the common council may prescribe any additional duties for its officers, appoint and instruct other agents, impose and collect fines, which shall not exceed fifty dollars in any one case; give and receive appropriate assurances and acquittances; and make any contracts or regulations necessary and proper for such a corporation.

Sec. 10. That the Mayor and Recorder each shall have the authority and jurisdiction in general of a Justice of the Peace, and also, peculiar jurisdiction under the corporate ordinances subject to the general law as to amounts, modes of proceeding and control, as well as qualifications.

Sec. 11. That every concession of property to said town heretofore made by or under any resolution or act of the Legislature of the late Republic of Texas, is ratified and the title to such property is confirmed to said town and its assigns from the time of such concession, subject to any paramount right remaining in any person under the constitution and other laws; provided, that this act shall not be construed so as to affect the possession or the right of possession, or the right of any person owning or occupying lots of ground, in what was formerly the town of La Bahia, on or before the 25th day of October, one thousand eight hundred and forty-four.

Sec. 12. That this act shall be in force from its passage, and all laws and parts of laws inconsistent with it are repealed.

Approved, February 9, 1852.

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## CHAPTER XCV.

### An Act to incorporate the Town of Independence.

Section 1. Be it enacted by the Legislature of the State of Texas, That all the free white inhabitants comprised with the corporate limits of the town of Independence, in Washington county, as hereinafter described, are hereby declared to be a body corporate, under the name and style of the Mayor and Aldermen of the town of Independence; and under that name may sue and be sued, plead and be impleaded, in any court in this State; the said corporation may hold and convey property,



real and personal; provided, the real estate held by said corporation shall at no time exceed fifty thousand dollars in value.

Sec. 2. The said corporation shall elect one Mayor, one Recorder, five Aldermen and one Treasurer, who shall hold their office one year; the Mayor and Aldermen of said town may appoint as many officers as may be necessary to preserve peace and good order.

Sec. 3. The said Mayor, Aldermen, Recorder and Treasurer, shall be elected by the electors resident in the limits of said corporation, who are qualified to vote for Representatives in the State legislature.

Sec. 4. The limits of said corporation are hereby declared to extend one mile in all directions from the centre of the public square in said town of Independence.

Sec. 5. The Mayor and Aldermen of said town, shall have the power to enact all such by-laws and ordinances, as may be necessary to preserve the peace, health and good morals of said town; provided, the same are not inconsistent with the laws or constitution of this State.

Sec. 6. The fines imposed by the ordinances of said corporation shall in no case exceed one hundred dollars for any one offence, which may be recovered before any Justice of the Peace or other competent tribunal, in the name of the Mayor and Aldermen of the town of Independence; and when collected shall be applied to the benefit and use of said corporation.

Sec. 7. No tax shall be imposed upon any person or property in the limits of said corporation, without the concurrence of the Mayor and two-thirds of all the Aldermen elected.

Sec. 8. The Chief Justice of Washington county, so soon as he shall receive from the Secretary of State a certified copy of this act, shall order an election to be held at the town of Independence for the officers above mentioned; the said election to be governed by the laws regulating elections for members of the State legislature, so far as applicable; the person elected Mayor shall, before entering upon the duties of his office, take an oath to support the constitution and laws of this State before the Chief Justice; and the Mayor shall administer the like oath to the other officers.

Approved, February 9, 1852.

## CHAPTER XCVI.

An Act for the Relief the Heirs of Edward E. Williams, deceased, and Agapito Caitan, or his Assignee.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue a certificate for one league and labor of land to the heirs of Edward E. Williams, deceased; and, also a certificate for one league and labor of land to Agapito Caitan, or his legal assignee; provided, that said Commissioner shall be satisfied from an examination of his office, that said claims have not heretofore been satisfied.

Sec. 2. That this act take effect from its passage.

Approved, February 9, 1852.

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## CHAPTER XCVII.

An Act for the relief of John Bethea.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office, be, and he is hereby required to issue to John Bethea a certificate for one-third of a league of land; provided, the said Bethea has not heretofore received his quantum of land; to be located and patented as in other cases of first class headright certificates; and that this act take effect and be in force from and after its passage.

Approved, February 9, 1852.

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## CHAPTER XCVIII.

An Act for the relief of the heirs of Stephen Prather, deceased.

Sec. 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office, be, and he is hereby authorized and required to issue to the heirs of Stephen Prather, a certificate for one league and labor of land, which may be located on any vacant, unappropriated public domain in the State of Texas; and upon the return of a legal

survey to the General Land Office, a patent shall issue thereon upon the applicant paying government dues and patenting fees as charged for original colonists.

Sec. 2. And that this act take effect and be in force from and after its passage.

Approved, February 10, 1852.

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## CHAPTER XCIX.

An act to Incorporate the town of Lockhart, in Caldwell County.

Section 1. Be it enacted by the Legislature of the State of Texas, That the citizens of the town of Lockhart, in Caldwell county, be, and they are hereby constituted a body politic and corporate, under the name and style of the corporation of the town of Lockhart, and by that name shall have power to sue and be sued, plead and be impleaded; and to hold and dispose of real and personal property; provided, such real property is situated within the limits of said corporation.

Sec. 2. It shall be the duty of the citizens of said corporation to elect a Mayor, five Aldermen, a Collector and a Constable; and said Aldermen shall elect a Treasurer and Secretary from their own body; the Treasurer and Collector being required to give bond with security, to be approved by the presiding officer, for the faithful performance of their duties, and to make reports when required by the Mayor or Board of Aldermen; and the Mayor shall have power, when necessary, to suppress riots and disturbances, and to call out the citizens of said corporation for the purpose of restoring order.

Sec. 3. The first election shall be held under the direction of the Chief Justice of said county, after giving ten days notice thereof, for officers of the corporation; and annually afterwards, under the direction of the Mayor, at least ten days before the expiration of his term of office; and in case of the death or resignation of any officer or officers, the vacancy or vacancies shall be filled by new elections, to be ordered by the Mayor; and in case the office of Mayor shall be vacant, then the Aldermen shall elect one of their own body to act as Mayor until the next annual election.

Sec. 4. No person shall be eligible to any office under the provisions of this charter, nor entitled to a vote, who is not a

citizen of this State, and a resident within the limits of the corporation.

Sec. 5. The Mayor and Board of Aldermen of said corporation shall have power to pass such by-laws and ordinances as may be necessary for the regulation of the police, and the preservation of order within the corporate limits; to levy taxes for the removal of nuisances and keeping the streets in good order, and to prescribe penalties for the violation of the ordinances and by-laws of the corporation; provided, that in no case such penalties shall exceed one hundred dollars.

Sec. 6. The limits of said corporation shall extend one-half mile in every direction from the public square.

Sec. 7. The Mayor, with a majority of the Aldermen, shall constitute a quorum for the transaction of business, and shall enact and enforce such by-laws and ordinances as they may deem necessary for the government of said corporation; provided, the same do not conflict with the constitution and laws of this State.

Sec. 8. That this act take effect and be in force from and after its passage.

Approved, February 10, 1852.

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## CHAPTER C.

An Act granting three hundred and twenty acres of land to each of three twin children of Mrs. Susan J. Dooley and Littleton J. Dooley of Rusk county.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized to issue a certificate for three hundred and twenty acres of land, to and in the name of each of the three twin children of Mrs. Susan J. Dooley and Littleton J. Dooley, of Rusk county.

Sec. 2. That said certificates shall be located, surveyed and patented for the sole benefit of the said children and their heirs, and the land patented under the same shall not be sold until the youngest surviving child of said twin children, shall have attained the age of twenty-one years.

Sec. 3. That if one or two of said children should die child-

less, or without leaving a wife, the survivor or survivors of them shall inherit the land herein granted them.

Sec. 4. This act to take effect from and after its passage.

Approved, February 10, 1852.

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## CHAPTER CI.

An Act for the relief of Jesse Walling, assignee, &c.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office issue to Jesse Walling, assignee of Vicente Mendez, a certificate for one league and labor of land.

Sec. 2. And that said certificate shall be as good and valid as any legal certificate, and entitled to all the rights and privileges known to law.

Sec. 3. And that this act take effect from and after its passage.

Approved, February 10, 1852.

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## CHAPTER CII.

An Act for the relief of Robert Bartlett.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office, be, and he is hereby authorized to issue to Robert Bartlett a certificate for six hundred and forty acres of land; provided, he shall be satisfied, upon an examination of the records of his office, that the said Robert Bartlett has never received a certificate for, or obtained a headright of land.

Sec. 2. That the certificate which may be issued under the provisions of this act may be surveyed, located and patented as in other cases.

Sec. 3. That this act take effect from and after its passage.

Approved, February 10, 1852.

## CHAPTER CIII.

## An Act for the relief of Zachariah L. Stringer.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office, be, and he is hereby authorized and required to issue to Zachariah L. Stringer a certificate for one league and one labor of land, which certificate shall be located, surveyed and patented as other first class headright certificates; and that this act take effect and be in force from and after its passage.

Approved. February 10, 1852.

## CHAPTER CIV.

## An Act to incorporate the Grand Bluff Turnpike Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That A. D. Vawter, and his associates, be, and are hereby created a body corporate, under the name and style of the "Grand Bluff Turnpike Company," and in that name may sue and be sued; plead and be impleaded; may have a common seal; with full power to make contracts; to grant and receive; to do generally, and to perform such acts and things as may be necessary and proper for, or incident to the fulfilment of its obligations, or the maintenance of its rights.

Sec. 2. That they be invested with the right of locating, constructing, owning, maintaining and extending a turnpike, with such branches as they may deem expedient, commencing at the East bank of the Sabine river, opposite to Grand Bluff, and thence running by such course to the Louisiana line, as said company may think most suitable; and may acquire by purchase or gift any real estate desirable, in order to promote or hasten the constructing, repairing and maintaining said turnpike with all necessary build-ings; and may build, or procure, and maintain toll-gates for the collection of tolls on said road, at such places as they shall deem proper

Sec. 3. That this company be authorized and empowered to demand, collect and receive from each and every person passing over said turnpike road through the Sabine bottom, the following rates, viz: for each and every loaded wagon with more than two horses, or one yoke of steers, twenty-five cents per wheel, including driver and team; all other wagons and plea-

sure carriages, twelve and a half cents per wheel; for each horse or mule and rider, ten cents; for loose horses, mules or cattle, five cents per head; for each sheep, hog or goat, three cents per head; and for each and every man or woman, five cents.

Sec. 4. That such improvements as are necessary shall be made through the Sabine bottom, extending to the Louisiana line, for which toll rates shall be determined and established by the County Court of Panola county.

Sec. 5. That should any person or persons pass over said road, drive any horses, mules, cattle, sheep or goats, any wagon or other carriage on the same, without paying toll therefor; or who may obstruct or damage said road, the said company shall have the right of action to recover such toll or damages sustained in any Court having competent jurisdiction.

Sec. 6. That should any person or persons using said road, or traveling on it, be detained or injured in his or her person or property, by reason of the insufficiency of said road, or any bridge or tunnel constructed thereon by or through the negligence or misconduct of any agent of said company, then the said company shall be liable to the person or persons so detained or injured, in an action of damages in any Court having competent jurisdiction; and said road may be seized and sold to satisfy any judgment thus obtained.

Sec. 7. That said company shall enjoy and exercise the privileges herein granted, for the term of twenty years from and after the completion of said road.

Sec. 8. That said company shall have five years from and after the passage of this act, to complete said turnpikes, bridges and tunnels, and in case the road through the bottom on Sabine river is not in that time completed, then this charter shall be forfeited.

Approved, February 10, 1852.

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## CHAPTER CV.

An Act for the relief of the heirs of William Guyman, a deceased soldier.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized to issue to the heirs of William

Guyman, a certificate for one-third of a league of land, being the amount of land due the said William Guyman as a headright claim.

Sec. 2. That the said certificate, when issued, shall entitle the said heirs to have surveyed any unappropriated vacant land; and the Commissioner is hereby authorized to patent the same as other second class certificates; and that this act take effect from and after its passage.

Approved, February 10, 1852.

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#### CHAPTER CVI.

An Act requiring the Adjutant General to issue to Noah Smithwick, his heirs or assigns, a bounty land warrant for twelve hundred and eighty acres of land.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Adjutant General of the State of Texas, be, and he is hereby authorized to issue to Noah Smithwick, his heirs or assigns, a bounty land certificate for twelve hundred and eighty acres of land, for twelve months services of said Noah Smithwick from the 29th January, 1836, to 30th January, 1837, as a ranger on the frontier of Texrs, and that this act take effect from its passage.

Approved, February 10, 1852.

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#### CHAPTER CVII.

An Act for the relief Levi Korn.

Section 1. Be it enacted by the Legislature of the State of Texas, That Thomas W. Ward, Commissioner of Peters' Colony, be, and he is hereby authorized and required to issue to Levi Korn, a colony land certificate for 640 acres of land, which may be located and surveyed upon any vacant or unappropriated land in said Peters' Colony, and patented as in other certificates issued to colonists of the colony aforesaid, upon his paying the usual fees for the issuance of such certificates.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved, February 10, 1852.



CHAPTER CVIII.

**An Act for the relief of William H. Parker.**

Section 1. Be it enacted by the Legislature of the State of Texas, That the Comptroller be authorized and required to issue duplicates of bonds, number eighteen hundred and sixty-one, for one thousand dollars; number eighteen hundred and sixty-two, for one thousand dollars; number eighteen hundred and sixty-three, for five hundred dollars; number eighteen hundred and sixty-four, for one hundred dollars, the originals of which were issued to said Parker under the act of the late Republic of Texas, approved, June 7th, 1837, entitled "an act to authorize the consolidation and funding of the public debt," and which were subsequently lost by the said Parker; and the Auditor and Comptroller are hereby authorized and required to audit the same according to the rate at which claims of a like nature have heretofore been audited; application for which was made previous to 1st day of September, A. D. 1851.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved, February 10, 1852.

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CHAPTER CIX.

**An Act to Incorporate the Henderson and Burkville Railroad Company.**

Section 1. Be it enacted by the Legislature of the State of Texas, That Julien S. Devereaux, William C. Kelly, D. G. Hardin, B. F. Thompson, J. R. Burk, Charles Vinzent, Alex. Green, Dr. William M. Ross, S. C. Thompson, Wm. Haltom, Col. Allen Birdwell, Jesse Walling, Peter Tipps, David Ford, Jesse Mayfield, Gen. James Smith, E. M. Daggett, Frost Thorn, Wm. F. Ecols, Lewis Jones, Wm. Elliott, M. Cartwright, A. H. Evans, J. W. Flanagan, Henry M. Lawson and their associates and successors, be, and they are hereby enacted and established a body corporate and politic, under the name of the Henderson and Burkville Railroad Company, with capacity in said corporate name to make contracts, to have successions and a common seal; to make by-laws for the regulation and government of the affairs; to sue and be sued; to plead and be

impleaded; to grant and receive, and generally to do and perform all such acts as may be necessary or proper or incident to the fulfilment of its rights under this act, and in accordance with the constitution of this State.

Sec. 2. That the said company be and is hereby invested with the rights of locating, contracting, owning and maintaining a railway, commencing at the town of Henderson, in the county of Rusk, and thence running to Burkville, through Shelby and San Augustine counties, the route deemed nearest and most practicable by said company, with the privilege of making, owning, and maintaining such branches of said railroad as they may deem most expedient.

Sec. 3. That the parties named in this act, or a majority of them, with such persons as they may associate with themselves for this purpose, are hereby appointed Commissioners, and invested with the right of forming and organizing said company, and of exercising the powers of directors, and chosen when the Commissioners shall cease.

Sec. 4. That the capital stock of said company shall be divided into shares of one hundred dollars each; each share entitling the owner thereof to one vote in person or by proxy at all meetings of the company; and the shares shall be deemed personal estate, and shall be transferable by any conveyance in writing, recorded either by the treasurer, in books kept by him for that purpose at his office, or by any other person duly authorized by the directors.

Sec. 5. That the affairs and business of the said company shall be conducted and managed by a board of directors not less than seven, nor more than eleven; who shall be elected by the company at such time as the said Commissioners may appoint, and annually thereafter; provided, that in case of failure so to elect at the stated time, the board of directors incumbent shall continue in office until there be an election, the time for which may be fixed by said board, whereof reasonable notice shall be given.

Sec. 6. That the said directors shall elect from their number a President, Secretary and Treasurer, and require security of them for the faithful performance of their duties, and said President and directors shall do or cause to be done all other lawful acts or things which they may deem necessary or proper in conducting the business of said company; a majority of said board shall constitute a quorum for doing business. All instruments in writing, executed by the President and Secretary, un-

der the seal of the company, with the consent of the board of directors, shall be valid and binding.

Sec. 7. That said company may acquire by purchase, donation, or in payment of stock, such real estate as the directors shall think desirable, for the purpose of aiding in the construction or maintenance of said road; and such real estate acquired by the company may be alienated or mortgaged by a vote of the majority of the directors for the constructing or maintaining said railway; said alienation or mortgage shall be signed in the name of the President, and countersigned by the Treasurer.

Sec. 8. That said company shall have power to borrow money on their bonds or notes, at such rates as the directors shall deem expedient; provided, however, that nothing in this act shall be construed to confer banking privileges of any kind.

Sec. 9. There shall be granted to said company eight sections of land of six hundred and forty acres each, for every mile of railway actually completed by them and ready for use; and upon the application of the President of the company, or any duly authorized agent thereof, stating that any section of five miles, or more of said railway has been completed and is ready for use, it shall be the duty of the Comptroller of public accounts to require the State Engineer, or a Commissioner to be appointed by the Governor, to examine said railway, and upon his certificate that said section of said railway has been completed in a good and substantial manner, and is ready for use, the Comptroller shall give information of that fact to the Commissioner of the General Land Office, whose duty it shall be to issue to said company, land certificates to the amount of eight sections of land, of six hundred and forty acres each, for each and every mile of railway thus completed and ready for use; such certificates shall be for six hundred and forty acres each, and shall be located upon any unappropriated public domain of the State of Texas, within twelve months from the issuing thereof, which date shall appear upon the face of each certificate; and upon the return of the field-notes of any survey made by virtue of any certificate thus issued, it shall be the duty of the Commissioner of the General Land Office to issue patents to said company in their corporate name; one-fourth of which said lands thus patented shall be alienated by the company in six years, one-fourth in eight years, one-fourth in ten years, and the other fourth in twelve years, so that the whole of the lands thus granted shall pass from the hands of the company within twelve years from the date of the patents thus issued.

Sec. 10. That if any person shall negligently or designedly

injure or destroy any of the fixtures, buildings, machines, materials or improvements of the company, he shall be subject to indictment therefor, and on conviction may be punished by fine and imprisonment, and shall also be liable to said company in a civil action for damages.

Sec. 11. That said company shall have two years to commence said railroad, and if it is not completed within five years from and after the passage of this act, this act shall be null and void at the expiration of said time.

Sec. 12. This company is hereby required at reasonable times, and for a fair compensation, to draw over their road the passengers, merchandize and cars of any other railroad which has been or may hereafter be authorized by the Legislature to connect with the road of this company; and if the respective companies shall be unable to agree upon the amount of compensation to be paid for such service and privilege, it is hereby required that the President of each company shall select one person each, and the two persons so chosen shall appoint a third person, neither of whom shall be stockholders in either company, who shall act as umpires; and they shall fix the rates for such service, which shall not be changed for the term of one year after its going into effect.

Sec. 13. That this act shall take effect from and after its passage.

Approved, February 10, 1852.

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## CHAPTER CX.

An Act to amend the first section of an act for the relief of Greenberry Logan and Joseph Taylor, approved February 8th, 1850.

Section 1. Be it enacted by the Legislature of the State of Texas, That the first section of said act is amended so as to read as follows: to Josiah Taylor, in place of Joseph Taylor, which name was inserted by mistake; and that all surveys and transfers made therein, in accordance with law, are hereby made valid.

Sec. 2. And that this act take effect from and after its passage.

Approved, February 10, 1852.

CHAPTER CXI.

An Act to Incorporate the Bastrop Educational Society.

Whereas, certain citizens of the town and county of Bastrop, with a view to promote the cause of Education in said town and county, associated themselves together in a joint stock company, and proceeded to raise the capital sum of twelve thousand dollars, by dividing and selling the same in shares of one hundred dollars each, with the proceeds of which they purchased a lot in the town of Bastrop and erected thereon a commodious building, and have now in operation a large and flourishing school; therefore,

Section 1. Be it enacted by the Legislatare of the State of Texas, That the above association and their successors shall constitute a body corporate, under the name of the "Bastrop Educational Society;" and under that name may sue and be sued, defend and be defended in all the courts of law and equity in this State.

Sec. 2. That all the estate, real, personal and mixed, had and held by Bastrop Academy, or that may have been conveyed to the same for educational purposes, at any time prior to this act, be, and the same is hereby declared to vest in, and inure to this society, in as full and perfect a manner as if said society had, at the time of said conveyance, been incorporated.

Sec. 3. That the officers of this association shall consist of a Chairman, Secretary and Treasury, who shall be elected by the stockholders at their annual meeting, on the first Monday in July, and shall hold their office for one year; none but stockholders shall be eligible to any office in this association; it shall be the duty of the chairman to preside at all the meetings of this association, and to call the same together whenever he may think the interest of the association demands it; or, in the absence of the chairman, any three of the stockholders may call a meeting of said association for the transaction of any business, and appoint a Chairman to preside; the Chairman shall draw and sign all drafts upon the Treasurer for all monies appropriated by the board of directors, hereinafter to be provided for; it shall be the duty of the Secretary to attend all meetings of the association, and keep the proceedings and resolutions of the same in a substantial form; it shall be the duty of the Treasurer to receive and pay out all monies upon the draft of the Chairman; he shall keep his receipts and disbursements in a

permanent form, which shall be opened to the inspection of any stockholder.

Sec. 4. That the Chairman of this association shall issue certificates of stock to each stockholder, so soon as the price of the same shall be paid, which certificates shall be transferable by the consent of the company.

Sec. 5. That if any purchaser of stock in this association shall fail to pay the price of the same, after receiving twenty days notice, such stock shall be sold to the highest bidder, and the purchaser of said stock shall be entitled to all the privileges of this association, for the amount of stock so purchased, and should the same fail to bring the amount due thereon, then the defaulter shall be compelled to pay the deficiency by the ordinary process of law.

Sec. 6. That this association may increase their capital stock to an amount not exceeding two hundred thousand dollars, and make such regulations as they may judge best for the interest of this association; provided, the same shall not be disposed of in any way foreign to the purposes mentioned in the preamble of this act, and should any resolution be offered, having for its object any other disposition of said property, such resolution shall be offered at the annual meeting of this association, and shall lie over for the space of three months, and on its final passage shall require three-fourths of the votes of the association.

Sec. 7. That any stockholder may devise or bequeath the same, as other property, and any stockholder who may die intestate, his or her stock shall descend to their lawful heirs, as other property; provided, further, that no misnomer of said Academy shall defeat any gift, obligation or bequest to the same.

Sec. 8. That this act take effect from and after its passage.

Approved, February 10, 1852.

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## CHAPTER CXII.

### An Act to Incorporate the Town of Paris.

Section 1. Be it enacted by the Legislature of the State of Texas, That the citizens of the town of Paris be, and are hereby declared a body corporate and politic, under the name and style of the corporation of the town of Paris; who shall have the power of suing and be sued, of pleading and being implead-

ed, and to hold and dispose of real and personal property within the limits of said corporation.

Sec. 2. That it shall be the duty of said citizens to elect four Aldermen, a presiding officer or Mayor; a Treasurer and Secretary, shall be selected by them from their own body; that a Collector shall be elected by said citizens; the Treasurer and Collector being required to give satisfactory security, and make reports when required by the Mayor's warrant; that the corporation shall elect one Constable, and the Mayor, when necessary to suppress riots and disturbances, shall have power to call out the posse for the purpose of restoring order.

Sec. 3. That the first election for officers shall be held under the direction of the Chief Justice of the county, after having given ten days notice thereof, and annually afterwards by the presiding officer, at least ten days prior to the expiration of his term of office; and that in case of death or resignation, the vacancy or vacancies shall be filled by new elections; and in case of a failure to elect officers, the old ones shall continue until the new ones shall have been regularly elected and duly qualified.

Sec. 4. That all free white males of the age of twenty-one years, who have been resident citizens of the town thirty days previous to the election, and claim citizenship and pay taxes, shall be entitled to vote for officers in said corporation.

Sec. 5. That no one shall be eligible for the office of Mayor or Aldermen, unless they are citizens of the town and own real estate therein; the other officers to be citizens and entitled to vote.

Sec. 6. That it shall be the duty of the Aldermen to pass such rules or ordinances for the regulation of the police and preservation of order within the corporation limits, as may be necessary; to levy taxes for the removal of nuisances and keeping the streets in order, and prescribing the penalties; provided, however, that no tax shall be levied unless by consent of two-thirds of the Aldermen, and it being assessed according to the valuation of the property; and when a meeting is called for this purpose, the object must be stated in the notice.

Sec. 7. That the officers of said corporation shall have the privilege of establishing schools within the limits of said corporation.

Sec. 8. That the rules and ordinances of said corporation shall not be contrary to the constitution and laws of this State.

Sec. 9. That the limits of said corporation shall be one mile square, of which the courthouse shall be the centre.

Sec. 10. That this act take effect and be in force from and after its passage.

Approved, February 10, 1852.

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### CHAPTER CXIII.

An Act to authorize the Auditor to settle the Accounts of Wm. G. Cook, as late Quarter Master General.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Auditor be, and he is hereby authorized and required to settle and adjust the accounts of William G. Cooke, as Quarter Master General of the Army of the late Republic of Texas, for money drawn by him for disbursement, while acting in said capacity.

Sec. 2. That if on final settlement, the said William G. Cooke should be indebted to the government, the Auditor is hereby authorized to pass to his credit all, or so much thereof as may be necessary, of the amount due him for services rendered in the civil and military establishments of the late Republic, which remains unpaid, as will be necessary to settle and adjust his, the aforesaid Cooke's, indebtedness to the State, at the same rate established by the Auditorial board in similar cases.

Sec. 3. That should any balance be found due the said William G. Cooke, after the settlement of his accounts as aforesaid, the Auditor and Comptroller are hereby authorized to issue a certificate to the widow of the said William G. Cooke, for such balance; the same to be considered upon equal footing, as though said accounts had been adjusted and examined prior to the first Monday in September, eighteen hundred and fifty-one.

Sec. 4. This act shall take effect and be in force from and after its passage.

Passed, January 28, 1852.

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### CHAPTER CXIV.

An Act to Incorporate the Town of Washington.

Section 1. Be it enacted by the Legislature of the State of Texas, That the citizens of the town of Washington be, and are hereby declared a body corporate and politic, under the



name, and style of "the corporation of the town of Washington;" who shall have the power of suing and being sued, of pleading and being impleaded, and to hold and dispose of real and personal property within the limits of said corporation.

Sec. 2. That it shall be the duty of said citizens to elect four Aldermen, a presiding officer, or Mayor; a Treasurer and Secretary, who shall be selected by them from their own body; that a Collector shall be elected by said citizens, the Treasurer and Collector being required to give satisfactory security, and make reports when required by the Mayor's warrant; that the corporation shall elect one Constable; and the Mayor, when necessary to suppress riots and disturbances, shall have power to call out the posse for the purpose of restoring order.

Sec. 3. That the first election for officers shall be held under the direction of the Chief Justice of the county, after having given ten days notice thereof, and annually afterwards by the presiding officer at least ten days prior to the expiration of his term of office; and that in case of death or resignation, the vacancy or vacancies shall be filled by new elections; and in case of a failure to elect officers, the old ones shall continue until the new ones shall have been regularly elected and duly qualified.

Sec. 4. That all free white males of the age of twenty-one years, who have been resident citizens of the town thirty days previous to the election, and claim citizenship and pay taxes, shall be entitled to vote for officers in said corporation.

Sec. 5. That no one shall be eligible for the office of Mayor or Aldermen, unless they are citizens of the town and own real estate therein; the other officers to be citizens and entitled to vote.

Sec. 6. That it shall be the duty of the Aldermen to pass such rules or ordinances for the regulation of the police and the preservation of order within the corporation limits, as may be necessary; to levy taxes for the removal of nuisances and keeping the streets in order, and prescribing the penalties; provided, however, that no tax shall be levied unless by consent of two-thirds of the Aldermen, and it being assessed according to the valuation of the property; and when a meeting is called for this purpose, the object must be stated in the notice.

Sec. 7. That the officers of said corporation shall have the privilege of establishing schools within the limits of said corporation.

Sec. 8. That the rules and ordinances of said corporation shall not be contrary to the constitution and laws of this State.

Sec. 9. That the lines of said corporation shall run as follows, viz: beginning where the lower town line leaves the Brazos river, and running in a direct line so as to include the residence of B. B. McGregor; thence so as to include the residences of C. B. Conley, J. Lancaster and A. B. Fleury; thence so as to include the grove in which the Masonic Academy is located; thence south-west to intersect the upper town line; and thence with said line to the river Brazos, and down said river to the beginning place.

Sec. 10. That this act take effect and be in force from and after its passage.

Approved, February 10, 1852.

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#### CHAPTER CXV.

##### An Act for the relief of General Memucan Hunt.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of nine hundred and thirty-eight dollars be allowed and paid General Memucan Hunt, out of any money in the Treasury, which may hereafter be appropriated for the payment of the public debt of the late Republic of Texas, being balance due him for advances in eighteen hundred and thirty-six, and salary as Minister to the United States; provided, that the said Hunt shall, before said money is paid, file with the Treasurer of this State an unconditional release for all claims against the late Republic of Texas.

Sec. 2. This act shall take effect from its passage.

Approved, February 10, 1851.

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#### CHAPTER CXVI.

##### An Act for the relief of Walter Barclay.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required, upon the application of Walter Barclay or his legal representative, to cancel patent number six hundred and ninety-five, second class, for twelve hundred and eighty acres of land, situated on Wolf creek, in Tyler county; and the said Commissioner of the General Land

Office is further authorized and required to deliver to the said Walter Barclay or his legal representatives, his headright certificate upon which said patent number six hundred and ninety-five was predicated; which certificate shall be sufficient authority to any lawful surveyor, to survey the same upon any vacant and unappropriated public domain of the State, upon which certificate and survey or surveys the Commissioner of the General Land Office is hereby required to issue a patent or patents as on any other legal claim against the government for land, upon the payment of the fees accruing upon the labor and trouble incident to the cancelling said patent, and upon the payment of the fees for the same.

Sec. 2. That this act take effect from and after its passage.

Approved, February 10, 1852.

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## CHAPTER CXVII.

Joint Resolution instructing our Senators and requesting our Representatives in the Congress of the United States, to use their exertions to obtain the indemnity from the government of Mexico for spoliations upon the property of Samuel A. Belden, a citizen of the United States.

Section 1. Be it enacted by the Legislature of the State of Texas, That our Senators be instructed, and our Representatives in the United States Congress be requested to use their utmost endeavors to bring to a speedy settlement the claim of Samuel A. Belden, (which claim with its vouchers has been filed in the State Department,) a citizen of this State, against the Republic of Mexico; and that they be further instructed and requested to use their exertions to defer the payment of the last installment of twelve millions due by the United States to Mexico, until this claim shall be satisfactorily liquidated; the same originating by an infraction by the Mexican government of the XIXth article of the treaty of peace, friendship, amity and settlement between the United States and Mexico, concluded 2d February, 1848.

Sec. 2. That his Excellency, P. H. Bell, Governor of the State of Texas, be requested to transmit a copy of the foregoing resolution to each of our Senators and Representatives in the United States Congress.

Approved, February 10, 1851.

## CHAPTER CXVIII.

**An Act to give certain civil and criminal jurisdiction to the Mayor of the City of Marshall, in Harrison County.**

Section 1. Be it enacted by the Legislature of the State of Texas, That the Mayor of the city of Marshall, in the county of Harrison, shall hereafter have and exercise all the powers and jurisdiction, both civil and criminal, of a Justice of the Peace, within and throughout the limits of said city; and shall be governed in the exercise of such powers and jurisdiction by all laws enacted, or to be enacted, for the government of Justices of the Peace in similar cases.

Sec. 2. Before said Mayor shall enter upon the discharge of any of the duties and powers granted in the preceding section, he shall execute a bond, with two or more sufficient sureties, in the sum of one thousand dollars, payable to, and approved by the Chief Justice of the county of Harrison, conditioned as in cases of Justices of the Peace, and shall also take the oath of office prescribed by law, before some officer authorized to administer oaths, which shall be endorsed on his bond, together with the certificate of the officer who administered the same; which bond and oath shall be returned and recorded as in cases of Justices of the Peace.

Sec. 3. This act shall be in force from its passage.

Approved, February 10, 1852.

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CHAPTER CXIX.

**An Act granting and securing six hundred and forty acres of land to the heirs of George W. Crowls, deceased, to which they are entitled by virtue of the services and death of said George W. Crowls, in the army of the Republic of Texas.**

Section 1. Be it enacted by the Legislature of the State of Texas, That the Adjutant General of the State of Texas be, and he is hereby authorized to issue to the heirs of George W. Crowls, a bounty land warrant for six hundred and forty acres of land.

Sec. 2. That the same shall be surveyed and patented as other lands, but in the name of, and for the sole use and benefit of the heirs of said George W. Crowls.

Sec. 3. That the bounty land warrant so to be issued shall contain the provisions of the second section of this act.

Sec. 4. That this act take effect from and after its passage.

Approved, February 10, 1852.

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CHAPTER CXX.

An Act for the relief of James McWilliams.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to James McWilliams, a certificate for eight hundred and thirty-six acres of land; it being the balance of land to which he was entitled for having arrived in the Republic of Texas as a volunteer, prior to the first day of August, eighteen hundred and thirty-six; which may be located, surveyed and patented as other first class certificates: and that this act take effect from and after its passage.

Approved, February 11, 1852.

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CHAPTER CXXI.

An Act for the relief of the Heirs of James Goacher, Sr., dec'd.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to the heirs of James Goacher, Sr., deceased, a certificate for one league and one labor of land, in lieu of the headright of said Goacher, who was killed by the Indians in March, 1837; which may be located on any of the vacant and unappropriated domain of the State of Texas; and when so located and the field-notes thereof are returned to the General Land Office, the Commissioner thereof shall issue a patent thereon to the said heirs or their assignees, upon the payment of patent fees and government dues, as in other cases.

Sec. 2. That this act take effect from and after its passage.

Approved, February 11, 1852.

## CHAPTER CXXII.

An Act for the relief of the Heirs of Nancy Anderson.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to the heirs of Nancy Anderson, deceased, a patent for her headright league of land, known on the plat of the Montgomery Land District, as league number one, the field-notes of the survey of which made by M. Cummins, are on file in the General Land Office, they paying the dues and fees as in other cases of first class headright claims; but this act shall not affect the legal rights of any third party.

Sec. 2. This act shall take effect from its passage.

Approved, February 11, 1852.

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CHAPTER CXXIII.

An Act supplementary to an act approved January 28, 1850, concerning the Incorporation of the City of Nacogdoches.

Section 1. Be it enacted by the Legislature of the State of Texas, That whereas many of the ancient records relating to lots within the city of Nacogdoches, have been lost, or are in an imperfect condition, and in order to quiet titles to real estate within said city, the corporation of said city is hereby invested with full power to release the corporation title to any lot or lots within said city in favor of individual claimants on such terms as may be deemed just and equitable, and to compromise with adverse claimants generally, receiving and granting releases of title as may be agreed on for the purposes mentioned.

Sec. 2. That said corporation is fully empowered to sell and make title to any vacant lots or grounds which were embraced within the limits of said city, as surveyed in the year A. D. 1837, and not included within the corporate limits as now defined.

Sec. 3. That the second section of the act aforesaid, approved January 28, 1850, be, and is hereby repealed, and the following enacted in lieu thereof: "The annual elections under this act may be held on any day in the month of March, after ten days notice by the Mayor or presiding officer of the board of Aldermen: and in case of failure to hold such election in the

month of March, the same may be held at any time thereafter by the Chief Justice of the county after ten days notice, as aforesaid; and the Aldermen and officers of said corporation are authorized to act until their successors are qualified."

Sec. 4. That the citizens of said city shall be free from liability to work on the roads and streets, the said corporation being hereby required to keep the roads and streets in good order.

Sec. 5. That this act shall take effect and be in force from and after its passage.

Approved, February 11, 1852.

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#### CHAPTER CXXIV.

An Act for the relief of H. F. Holcombe.

Section 1. Be it enacted by the Legislature of the State of Texas, the sum of one hundred dollars be, and the same is hereby appropriated to the use and benefit of A. F. Holcombe, for making and forwarding to the General Land Office, a map of Cass county; and that the same be paid out of any money in the Treasury not otherwise appropriated.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved, February 11, 1851.

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#### CHAPTER CXXV.

Joint Resolution authorizing and requiring the Treasurer of the State to pay to A. J. Hamilton, Esq., the sum of fifteen hundred dollars, for services as counsel for the State.

Section 1. Be it resolved by the Legislature of the State of Texas, That the Treasurer of the State be, and he is hereby authorized and required to pay, out of any monies not heretofore appropriated in the Treasury, the sum of fifteen hundred dollars to A. J. Hamilton, Esq., for services as attorney for the State, in suit of the State vs. John Delesdenier—the State vs. Williams, and three other cases; and this resolution shall take effect from and after it passage.

Approved, February 12, 1852.

## CHAPTER CXXVI.

An Act to Incorporate Red Mount Seminary, in the county of Sabine.

Section 1. Be it enacted by the Legislature of the State of Texas, That A. S. Kyle, William Scurlock, James Sharp, E. P. Gaines, J. B. McMahan and J. C. Woolam be, and they are hereby incorporated a body politic, under the name and style of "the Trustees of Red Mount Seminary," capable in law of suing and of being sued, of pleading and being impleaded, and to hold property, real, personal or mixed, of selling and conveying the same at pleasure, and of doing and performing whatever else that may be proper and necessary to be done for the advancement of said institution, not contrary to the constitution and laws of the State.

Sec. 2. That this charter and privilege shall extend to said Trustees and their successors in office, as long as they confine the benefit of the same to the advancement of the sciences, and the promotion of useful knowledge; which institution shall be accessible alike to all, without regard to opinions of religion or politics.

Sec. 3. That said Trustees and their successors in office shall have full power to enact by-laws, rules and regulations for the government of said Seminary, as may seem to them necessary for that object; to fill all vacancies which may occur in said board of Trustees, to elect such officers as may be necessary for the efficient discharge of their duties, and that three members shall form a quorum for the transaction of business.

Sec. 4. That this act shall take effect and be in force from and after its passage.

Approved, February 12, 1852.

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CHAPTER CXXVII.

An Act for the benefit of the Heirs of James and William Murphy, deceased.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to the heirs



or legal representatives of James Murphy and William Murphy, deceased, certificates for three hundred and sixty-nine acres each; which said certificates may be located, surveyed and patented as other claims, under the laws now in force, regulating the same.

Sec. 2. This act shall take effect from its passage.

Approved, February 12, 1852:

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## CHAPTER CXXVIII.

### An Act for the relief of John E. Linn.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue a certificate to John E. Linn, for one-third of a league of land, he having arrived as a volunteer in the Republic of Texas after the second day of March, eighteen hundred and thirty-six, and before the first day of August, eighteen hundred and thirty-six.

Sec. 2. That said Linn be required to pay the amount of government dues chargeable on first class headright certificates.

Sec. 3. And this act take effect and be in force from its passage.

Approved, February 12, 1852.

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## CHAPTER CXXIX.

### An Act for the relief of Sam. Bogart.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized to cancel patent number two hundred and eighty-three, volume nine, first class, issued in the name of John W. Holman, and to issue a patent for the same to Sam. Bogart, assignee of said John W. Holman; and that this act be in force from and after its passage.

Approved, February 12, 1852.

## CHAPTER CXXX.

## An Act for the relief of Pamela Allen.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue a certificate for six hundred and forty acres of land to Pamela Allen, as a settler in Peters' Colony, which shall entitle her to all the benefits of other settlers in said colony.

Sec. 2. And that this act take effect from and after its passage.  
Approved, February 12, 1852.

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## CHAPTER CXXXI.

## An Act for the relief of the heirs of Bernard O'Dougherty.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and is hereby authorized and required to issue a patent to the heirs of Bernard O'Dougherty for one league and one labor of land, lying, being and situated on Clark's Creek, Lavaca county; being the same tract of land granted to the said Bernard O'Dougherty by the Commissioner of DeWitt's Colony, and being the same tract of land upon which the said O'Dougherty settled and was residing as a colonist when he and his family were murdered by the Indians; provided, the Commissioner of the General Land Office shall be furnished with a copy of the field notes corresponding with the survey delineated on the map of the Gonzales Land District, purporting to be the same land owned by the said Bernard O'Dougherty, now on file in the Surveyor's office of Victoria county.

Sec. 2. That this act take effect from and after its passage.  
Approved, February 12, 1852.

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## CHAPTER CXXXII.

## An Act to incorporate the Town of Henderson, in Rusk county.

Section 1. Be it enacted by the Legislature of the State of Texas, That the citizens of the town of Henderson, in Rusk

county, be, and they are hereby declared a body politic and corporate, under the name and style of the corporation of the town of Henderson; by which name they may sue and be sued; plead and be impleaded; and acquire and hold real and personal property, within the limits of said corporation, and at their pleasure sell and dispose of the same.

Sec. 2. That the limits of said corporation shall extend one mile in a square so laid off as to leave the public square in the centre of said corporation.

Sec. 3. That it shall be the duty of the Chief Justice of the County to order an election to be held as early practicable after the passage of this act, upon giving ten days notice thereof, for the election of one Mayor and six Aldermen, and a Constable, who shall hold their offices for the term of one year from the time of their election, and until their successors are duly qualified. The said Mayor and Aldermen shall elect from their own body a Secretary and a Treasurer. The Treasurer and Constable shall be required to give bond with security, to be approved by the Mayor, for the faithful performance of their duties, and to make reports when required by the Mayor or Aldermen. The Mayor shall have and exercise all the powers and jurisdiction of a Justice of the Peace, and before entering upon the duties of his office, he shall take the oath prescribed in the constitution, and give such bond with securities as Justices of the Peace are required to give. The Constable shall have and exercise all the powers, and discharge all the duties within said corporation of a Constable of the county, and before entering upon the duties of his office, he shall give bond with security, to be approved by the Mayor.

Sec. 4. That the Mayor and board of Aldermen of said corporation shall have power to pass such rules and ordinances as may be necessary for the regulation of the police, and the preservation of order within the limits of said corporation; to levy taxes for the removal of nuisances and keeping the streets in good order, and to call out the citizens subject to road duty to work the streets; provided, that no person shall be required to work more than ten days in any one year; and to prescribe penalties for the violation of said ordinances or by-laws; provided, that in no case such penalty shall exceed the sum of one hundred dollars.

Sec. 5. That the Mayor, with a majority of said Aldermen, shall constitute a quorum for the transaction of business; they may enact and enforce such rules and regulations as they may deem necessary for the government of said corporation: provi-

ded, that the same do not conflict with the constitution or laws of the State.

Sec. 6. That no person shall be eligible to hold an office in said corporation, or to vote for the officers thereof, unless he be a citizen of the State, and shall have resided in the limits of said corporation during the period of six months immediately preceding such election, and be a house-holder or freeholder in the same.

Sec. 7. That it shall be the duty of the Mayor to cause an election to be held annually, at least ten days before the expiration of his office after giving at least ten days notice thereof, for a Mayor, Aldermen, a Collector and Constable, who shall enter upon the duties of their offices respectively, upon the expiration of the term of their predecessors.

Sec. 8. That a law now in force incorporating the town of Henderson is hereby repealed.

Sec. 9. That this act take effect and be in force from and after the passage thereof.

Approved, February 12, 1852.

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#### CHAPTER CXXXIII.

##### An Act to Incorporate the Dallas Bridge and Plank Road Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That Alexander Harwood, and such other persons as he may associate with him, are hereby incorporated under the name and style of the Dallas Bridge and Plank Road Company; and under such name may sue and be sued, and have succession for thirty years; they may have a corporate seal, and the right of holding real and personal estate for the purpose of carrying out the object of this incorporation; and may transfer, alienate and dispose of their joint or individual interests therein, at pleasure.

Sec. 2. That it shall be the duty of said Company, within four years from and after the passage of this act, to construct a good, substantial, convenient and safe bridge across the Trinity river opposite the town of Dallas, and a Plank Road of the same description across the bottom, all of which shall be above ordinary high water, and shall be so constructed as not

to interfere with the navigation of the Elm and West forks of said river; and it shall be the duty of said company to keep said bridge and plank road in convenient and safe repair during said term of thirty years.

Sec. 3. That it shall be the duty of the County Court of Dallas county, at the request of said company, to appoint three commissioners, whose duty it shall be to inspect said bridge and plank road, and if said commissioners shall find the same completed in accordance with this act, they shall give said company a certificate of the fact, which shall authorize said company to erect upon said bridge or road, a toll-gate, at which they may collect and receive toll at not exceeding the following rates: for each wagon, cart, carriage, or other vehicle, per wheel, twenty cents, and five cents per head for each animal by which it is drawn; for each animal and rider, ten cents; for each footman, five cents; for each loose horse, mare, mule, jack, jinnet, and head of cattle, five cents; for sheep, goats and hogs, two cents per head.

Sec. 4. That the commissioners appointed under this act shall hold their term of office for one year, and until their successors shall be appointed by the Court aforesaid; and it shall be their duty at any time when said road or bridge is out of order and unfit for travel, to direct said toll-gate to be opened, and so continue until said road and bridge is in proper repair; and it shall be the duty of said Commissioners to inspect said road and bridge at least twice in each year.

Sec. 5. That if any person traveling upon said road, or crossing upon said bridge, shall wilfully pass around said toll gate for the purpose of evading the toll levied by this act, he shall forfeit and pay to the company five dollars and cost of suit, for each and every offence; to be recovered before any Justice of the Peace in whose jurisdiction such person may be found.

Sec. 6. That so soon as said company shall have surveyed and located the route through said bottom for said road to run, it shall be the duty of the County Court of Dallas county, at the request of said company, to appoint a committee of five disinterested persons, who shall assess the value of the land proposed to be occupied by said company for said road, and in so doing, they shall ascertain the real value of said land without regard to any ferry, road or bridge privilege held, claimed, or owned by this or any other grant, which sum or sums shall alone be subject to the demands of any claimant of said land of said company.

Sec. 7. That all citizens of Dallas county who necessarily have to pass said river and bottom, to reach the county seat of said county, and all officers of said county who are required to pass the same in discharge of their official duties, shall pass upon said road and bridge free of toll.

Sec. 8. That this act take effect and be in force from and after its passage.

Approved, February 12, 1852.

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#### CHAPTER CXXXIV.

Joint Resolution authorizing a settlement of the accounts of George W. Smyth, on account of the building of a Land Office, &c.

Section 1. Be it Resolved by the Legislature of the State of Texas, That the Comptroller of Public Accounts be, and he is hereby authorized and required, to charge to the legal representatives of N. McArthur, deceased, the amount of money which has been advanced to him, the said McArthur, by George W. Smyth, Commissioner of the General Land Office, on account of the building of a fire-proof land office, upon the presentation and filing of receipts given by said McArthur to said Smyth, showing the amount of such advances.

Sec. 2. That the Comptroller is further authorized and required to pay to the legal representatives of said McArthur, the balance of the sum stipulated as the price of building said land office, in a contract dated the fifteenth day of July, eighteen hundred and fifty-one, between said Smyth, Commissioner, and said McArthur, as principal, and Thomas H. Jones, and F. Dieterich, and R. H. Peck as securities.

Sec. 3. That the Comptroller is hereby further authorized and required, upon the filing of the receipts of said McArthur heretofore referred to, to enter the amount thereof to the credit of the said George W. Smyth, Commissioner of the General Land Office, and upon the said Smyth presenting receipts showing that the entire amount drawn by him on account of said office, has been advanced to said McArthur on account of the same, he, the said Smyth, shall be released from all re-

sponsibility for and on account of said advances, and also on account of said office.

Sec. 4. That this joint resolution take effect immediately.

Approved, February 13, 1852.

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CHAPTER CXXXV.

Joint Resolution for the relief of Robert M. Elgin, Receiving Clerk of the General Land Office.

Whereas, The General Land Office was forcibly entered on the night of the 12th of December, 1851, and the sum of fifty-eight dollars and sixty-eight cents, in specie, and one hundred and seven dollars in Texas promisory notes, received by Robert M. Elgin, Receiving Clerk of said office, for government dues and patent fees, stolen from the drawer of said Clerk; therefore,

Section 1. Be it Resolved by the Legislature of the State of Texas, That the said Robert M. Elgin be relieved from all responsibility for said amounts, and that the Comptroller of Public Accounts be, and he is hereby authorized and required to enter a corresponding credit on the books of his office, in favor of the Commissioner of the General Land Office.

Sec. 2. That his joint resolution take effect from and after its passage.

Approved, February 13, 1852.

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CHAPTER CXXXVI.

An Act to Incorporate the Richmond Male and Female Academies.

Section 1. Be it enacted by the Legislature of the State of Texas, That the present Trustees, James M. Briscoe, Patrick Perry, James B. Miller, John H. Herndon, C. C. Dyer, George A. Feris, E. Varney, T. H. McMahon, James S. Sullivan and E. Cheney, of Richmond Male and Female Academies, in the town of Richmond, and county of Fort Bend be, and they are hereby constituted a body corporate and politic, by the name

and style of the Trustees of Richmond Academies, and as such shall be capable and liable in law to sue and be sued; plead and be impleaded, and shall be authorized to make such by-laws and regulations as may be necessary for the government of said Academies; provided, the same shall not be repugnant to the constitution and laws of this State, and for that purpose may have and use a common seal, and appoint such officers as they may think proper out of their own body, and remove the same from office for improper conduct or neglect of duty.

Sec. 2. That said trustees of said Academies, and of said body corporate, shall be privileged to accept of and may be invested with all manner of property, real, personal or mixed; also, all donations, gifts, grants and privileges which may be hereafter made or granted to said institution, or which may hereafter be conveyed or transferred to said trustees or their successors in office, to have and to hold the same for the use, benefit and behalf of said Academies; provided, said property shall not exceed in amount fifty thousand dollars.

Sec. 3. That the board of Trustees, as by this act, of said Academies, shall be divided by lot into three classes as nearly equal as can be; the seats of the first class shall be vacated at the expiration of one year; the seats of the second class at the expiration of two years, and the third class at the expiration of three years. At the expiration of the above periods, the board shall fill vacancies by elections, and if a vacancy or vacancies should occur in either of said classes before the expiration of their respective terms, the board shall fill the same by elections for the unexpired term; and in all cases of expiration of time, the old trustees shall hold their offices until their successors are elected, and that said classification shall take place on the last Monday in May, eighteen hundred and fifty-two; and the trustees shall hold their seats for the term thereafter, agreeable to said classification.

Sec. 4. The persons that may be appointed as trustees to fill the vacancies that may occur in the original board, shall be subject to the same classification and regulation as those herein constituted and appointed to fill vacancies.

Sec. 5. That said Academies shall be forever free from the control of any particular denomination of Christians, but shall be ever open for the use and benefit of all.

Sec. 6. This act shall take effect and be in force from and after its passage.

Approved, February 13, 1852.



CHAPTER CXXXVII.

An Act to authorize John Nelson, Andrew Stapp, Leroy Clement, and such other persons as they may choose, to construct a Bridge across the East fork of Trinity river, and a Turnpike Road across the bottom of said stream to the high land on each side, on the road leading from McKinney, in Collin county, to Bonham, in Fannin county.

Section 1. Be it enacted by the Legislature of the State of Texas, That John Nelson, Andrew Stapp, Leroy Clement, and such other persons as they may associate with them, be, and they are hereby created a body corporate under the name and style of the East Fork of Trinity Bridge and Turnpike Company, and in that name may sue and be sued; plead and be impleaded, and may have a common seal, with full power to construct a turnpike road and bridge across the East fork of Trinity, to the high lands on each side of the stream.

Sec. 2. That so soon as said company shall complete said road and bridge so as to render the same passable at all times, the County Court of Collin county shall inspect the same, and if said Court shall find the said bridge and road completed in good order, shall give a certificate to said company, certifying that the said bridge and road are in good condition for the same passage of persons traveling over the same; then said company shall be authorized to demand and receive the following rate of tolls, viz: for each wagon, ten cents per wheel, and five cents per head for the team attached thereto; provided, that in no instance said company shall receive more than one dollar for any wagon and team crossing at one time; pleasure carriages not to exceed ten cents per wheel, including the team; for each horse and rider, ten cents; loose horses, mules or cattle, two cents per head; for each sheep, hog or goat, on cent per head.

Sec. 3. That said company may erect as many gates for the collection of tolls as may be deemed necessary; provided, that no person shall be required to pay toll at more than one gate for each passage; provided further, that persons traveling part of the distance, shall be required to pay full toll if said person cross the main bridge.

Sec. 4. That if any person shall travel on said road, or drive any horses, mules, sheep, hogs, goats or cattle, or any wagon or other carriage, without paying the tolls therefor, other than as herein provided, or shall obstruct or damage said road or bridge, the said company shall have a right of action to recover

such tolls or damages sustained, in any court having competent jurisdiction.

Sec. 5. That should any person or persons traveling on said road be detained or damaged, either in his person or property, by reason of the insufficiency of said road or bridge, or by or through the negligence of said company, then the said company shall be liable to the person or persons so detained or damaged in an action of damage in any court of competent jurisdiction.

Sec. 6. That all citizens of Collin county traveling to and from the county seat, or elsewhere, on foot or horseback, be and they are hereby exempt from paying any toll for crossing said bridge or road, and all other footmen traveling said road be, and the same are hereby exempt from paying toll.

Sec. 7. The said company to enjoy the rights and privileges herein granted for the term of twenty years from and after the completion of said road and bridge; provided, that the county of Collin shall have the right to purchase said road and bridge with all the rights and privileges vested in said company by the charter, by paying to said company the amount expended in constructing said road and bridge, with ten per cent. interest thereon.

Sec. 8. That said company shall have one year and six months for the completion of said road and bridge from and after the first day of March, A. D. 1852, and in case said road and bridge be not completed in that time, then this charter to be forfeited.

Sec. 9. And this act take effect and be in force from and after its passage.

Approved, February 13, 1852.

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## CHAPTER CXXXVIII.

### An Act to Incorporate the Sulphur Springs in Hopkins county.

Section 1. Be it enacted by the Legislature of the State of Texas, That the citizens of the town of Sulphur Springs, in Hopkins county, be, and they are hereby declared a body politic and corporate, under the name and style of the corporation of the Sulphur Springs; shall have the power of suing and being sued; pleading and being impleaded; and to hold property, real and personal, within the limits of said corporation, and at their pleasure to dispose of the same.

Sec. 2. That the corporation limits of said town shall not exceed one mile square.

Sec. 3. That it shall be the duty of the Chief Justice of the county to order an election to be held as early as practicable after the passage of this act, upon giving ten days notice of the same, for the election of one Mayor and six Aldermen, a Collector, Constable, Treasurer and Secretary, who shall hold their offices for the term of one year from the time of their election. In case a vacancy occurs by death, resignation or otherwise, the vacancy for the unexpired term shall be filled by a new election, as follows: in case of vacancy in the office of Mayor, then the election to be conducted by a quorum of Aldermen; but in case of vacancy in the board of Aldermen, Collector or Treasurer, then the election shall be conducted by the Mayor. All persons residing within the corporation shall be entitled to vote for the above named officers, who are eligible to vote for members to the State Legislature.

Sec. 4. That the Mayor and two-thirds of the Aldermen shall constitute a quorum to do business.

Sec. 5. That the Collector, Treasurer and Secretary shall give bond to the Mayor, and his successors in office, in such sum and with such securities as shall be approved by the Mayor and board of Aldermen; and that all officers elected by virtue of this act, before entering upon the duties of their office, shall take and subscribe an oath for the faithful performance of the duties of their respective offices.

Sec. 6. That it shall be the duty of the Mayor to cause an election to be held annually, at least ten days before the expiration of his term of office, for Mayor, Aldermen, Collector, Treasurer and Secretary, who shall enter upon the duties of their offices respectively, upon the expiration of the term of their predecessors.

Sec. 7. That the Mayor shall have jurisdiction and exercise the power of a Justice of the Peace over all the offences committed against the ordinances and decrees of the Mayor and board of Alderman, within the limits of the corporation.

Sec. 8. That the Mayor and Aldermen shall have power to pass such ordinances and decrees as they may deem necessary for establishing schools, and for the support of education; for the regulation of the police and preservation of order; to prescribe penalties; to levy taxes for the removal of nuisances, keeping streets in order, and for such other purposes as the board may deem necessary and proper, within the limits of the

town; provided, that such ordinances and decrees shall not conflict with the constitution and laws of this State.

Sec. 9. That this act take effect and be in force from and after its passage.

Approved, February 13, 1852.

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#### CHAPTER CXXXIX.

An Act for the relief of the Heirs of James F. Pittman.

Whereas, James F. Pittman, a soldier in the army of Texas, was massacred with Fannin at Goliad, in the year A. D. 1836, and Whereas, The said James F. Pittman's name is not returned on the muster roll of Col. Fannin's command; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the Adjutant General be, and he is hereby required to issue to the heirs of James F. Pittman a headright certificate for fourteen hundred and seventy-six acres of land, and a certificate for nineteen hundred and twenty acres of bounty land.

Sec. 2. That said certificate shall entitle the heirs to have surveyed and patented any unappropriated vacant land of the State; and that this act take effect and be in force from its passage.

Approved, February 13, 1852.

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#### CHAPTER CXL.

An Act supplementary to an act to establish the University of Eastern Texas, approved March 8th, 1848.

Section 1. Be it enacted by the Legislature of the State of Texas, That the President and Trustees of the University of Eastern Texas, be, and they are hereby authorized and empowered to lease, let, alien and convey in absolute property, by deed, under seal of said University, to whomsoever they may select, all or any part of the buildings, houses and improvements, now belonging or appertaining to the said University of Eastern Texas; that this act take effect and be in force from and after its passage.

Approved, February 13, 1852.

CHAPTER CXLI.

An Act to Incorporate the Lavaca Navigation Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That Moses Johnson, R. M. Forbes, J. Randall, J. T. Benedict, R. J. Clow, A. H. Cooke, J. H. Davis, Z. K. Fulton, T. R. Threlkeld, William H. Ker, G. W. Adams, James Graham, and all other persons who may associate themselves with them, and their successors are hereby created a body politic and corporate, by the name and style of "the Lavaca Navigation Company;" and by that name and style may sue and be sued, plead and be impleaded, in law and equity, and may hold all kinds of property, real and personal and mixed.

Sec. 2. That the capital stock of said company shall be fifty thousand dollars, to be divided into shares of fifty dollars each; the subscription books for said stock shall be opened in Lavaca under the superintendence of Moses Johnson, R. M. Forbes and Z. K. Fulton, or any two of them, they first giving notice by publication at least twenty days before of the time and place of subscription, which books shall remain open for six days; provided, said stock is not taken, and may be re-opened at any other time and place at the discretion of the commissioners for the residue of said stock; provided, however, that five thousand dollars of said stock be subscribed, the remainder shall be subject to the superintendence of the directors hereinafter provided for, at such time and places as they may deem most expedient; provided, in all cases that not less than five per cent. of the amount subscribed be paid down, and the balance at such times as the directors may require, which they shall make known by publication at least thirty days before; and not require more than ten per cent. at any one time, but they are authorized to receive the whole amount or any larger sum than ten per cent. from the stockholders or subscribers, at their option.

Sec. 3. In case a larger amount than the capital should be subscribed, the commissioners shall deduct from the larger amount in such manner that no subscription shall be reduced, leaving any other subscription larger; and so soon as there is five thousand dollars of said stock subscribed, it shall be the duty of the commissioners to advertise for an election of directors, as hereinafter provided for, and to give them certificates of election, and to deliver to them the books of subscription, together with the funds received on account of stock, and all documents in their possession appertaining to said corporation.

Sec. 4. The object of this corporation being the improvement of the navigation of Matagorda and Lavaca Bays, they are hereby authorized and empowered to use and employ their capital in surveying and constructing a ship-channel from Pass Cavallo bar to the city of Lavaca, which channel shall be at least fifty feet wide, and not less than seven feet water at ordinary low tides; and the said corporation is authorized to commence operations so soon as five thousand dollars are subscribed as provided for by the preceding section.

Sec. 5. That whenever the whole or a portion of the canal or channel shall be so improved as to admit vessels of such depth of water as could not come up without the benefit of the labor bestowed on it, or at that time done, they shall be required to pay toll as hereinafter provided; the channel shall be free for the use of all and every vessel wishing to use it, and for which the corporation shall be entitled to charge, and authorized to collect off of every every vessel wishing to use it, and for which the corporation shall vessel drawing four feet or over, a toll not to exceed fifteen cents a ton, on the capacity of said vessel, custom-house measurement; which rates as may be established, altered and changed from time to time, shall be published for the benefit of those who may be interested, subject to the revision of the legislature; provided, they do not reduce the rates so as to make the net profits less than twelve and one-half per cent. per annum on the capital stock invested; and the said corporation is authorized to use its surplus capital and profits, accruing by loans and otherwise, not contrary to the laws or constitution of the State.

Sec. 6. The corporation and its property and effects shall be managed and governed by a board of five directors, to be chosen by the stockholders from among themselves, which said directors shall serve until the second Monday in January, in the next succeeding year after their election, or until others are elected to fill their places; an election for which is provided for on the second Monday in January, in each year; the directors so chosen must hold at least one share of the capital stock in his own proper right; and the directors elect shall choose one of their own body to be President, who shall preside at the meetings of the board, which shall establish their times of meeting by by-laws, and provide also for the absence of the President, and filling vacancies occasioned by absence, removal, resignation, death or otherwise of the President; and one of the directors shall be competent to transact ordinary business, but in the absence of the President, it shall require a majority of the board to transact business; all elections by ballot, and each stockhol-

der entitled to one vote for each share, to be given by self or by proxy in writing; it shall be the duty of the directors to advertise the time and place for holding the election, and to preside at same, but in case they neglect or refuse to do so, it shall be lawful for the stockholders to advertise ten days, and then proceed to elect directors as above.

Sec. 7. The board of directors shall have power to make all necessary rules and by-laws to carry into effect the purposes of this corporation, to make contracts, to employ agents, appoint a Secretary and other officers, and if found expedient, to sign contracts and other obligations by the President and countersigned by the Secretary, which shall be obligatory, and not otherwise; and it shall be their duty to keep a record of their proceedings, as well as contracts in a book or books provided for that purpose, which shall be subject to the inspection of every stockholder, and under the superintendence of the President and Secretary.

Sec. 8. Should any person or persons wilfully and maliciously obstruct or injure said channel or canal, or any of the works belonging to said company, such person or persons shall be liable to pay double the amount of damages sustained, to be recovered by said corporation, before any court of competent jurisdiction; and any vessel using said canal or channel and refusing to pay the toll established, such vessel shall be held liable for double the amount of the current rate to the company, and the vessel and owners shall be held liable until the payment is made.

Sec. 9. In case the said corporation should not complete the canal or channel in five years after the passage of this act, then the said corporation to cease and be of no effect.

Approved, February 13, 1852.

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## CHAPTER CXLII.

### An Act to Incorporate the Comal Union School.

Section 1. Be it enacted by the Legislature of the State of Texas, That Daniel Murcherson, David H. Coleman, William Sattler, J. G. Muller, J. J. Ottens, Conrad Pope, C. Engelks, J. H. Klingemann and Julius Haines be, and they are hereby incorporated a body politic, under the name and style of the Trustees of the "Comal Union School," capable in law of suing

and being sued, of pleading and being impleaded, of holding property, real, personal and mixed, of selling and conveying the same at pleasure, of having a common seal, and of doing and performing whatever else that may be proper and necessary to be done for the advancement of said institution, not contrary to the constitution and laws of this State.

Sec. 2. That this charter and privilege shall extend to the said Trustees and their successors in office, so long as they confine the operations of the same to the promotion of useful knowledge to the young, and the advancement of the sciences; and said institution shall be accessible alike to all without regard to religious opinions.

Sec. 3. That the Trustees shall have full power to enact such by-laws, rules and regulations for the government of said institution as may seem to them necessary for that object.

Sec. 4. That said institution herein created shall be located in the town of Comal; and that this act take effect from and after its passage.

Approved, February 13, 1852.

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#### CHAPTER CXLIII.

An Act to authorize the erection of a Toll Bridge across Big Cypress.

Section 1. Be it enacted by the Legislature of the State of Texas, That Allen Urquhart be, and he is hereby authorized to erect, construct, make, keep up and continue for the term of twenty years from the passage of this act, a Toll Bridge across the Big Cypress, at the town of Jefferson, between the counties of Cass and Harrison.

Sec. 2. That the said Urquhart shall within two years from the passage of this act, have the said bridge completed and in good condition for the public use, according to the opinion of the county court of Cass county, who are authorized and required to determine the same; and further, to fix the rates of toll which the said Urquhart shall be entitled to demand and receive from all persons, horses, cattle, sheep, goats, hogs, and for all vehicles of every description crossing said bridge, which rates of toll the said Urquhart shall be entitled to collect and receive accordingly.

Sec. 3. That the said bridge shall at all times be kept in good



and safe travelling order and condition by the said Urquhart, his executors, administrators or assigns, and that he and they shall be liable for any damages accruing from any neglect or failure in the premises.

Sec. 4. That the corporation of the town of Jefferson, may at any time within the said twenty years, erect a free bridge across the said Big Cypress, at the foot of any of their public streets, or any other piece of land, which they may purchase for that purpose within the corporation, and the right so to do is hereby expressly reserved to the said corporation.

Sec. 5. That if the said bridge be not completed to the satisfaction of the said county court, within the time hereby prescribed, and if the same be not kept in good and safe repair and condition at all times, convincing to the opinion of said court, who are hereby fully authorized to act in the premises, it shall be competent for the said court, upon reasonable notice to the said Urquhart, his executors, administrators or assigns, as the case may be, and after satisfactory proof and impartial hearing, to pronounce this charter forfeited, and the same shall thereupon become forfeited and null.

Sec. 6. That any person crossing the said bridge, and wilfully refusing to pay the tolls, which the said Urquhart is entitled to demand, shall be subject to a fine of not exceeding five dollars, and all costs of suit in addition to said toll, collectable in any court having jurisdiction of the case.

Approved, February 13, 1852.

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#### CHAPTER CXLIV.

An Act authorizing the Governor to obtain a Portrait of George Washington, belonging to the State, and now in the City of Houston.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Governor be authorized and required to have brought to the Seat of Government, for the use of the House of Representatives, the portrait of George Washington, the property of the late Republic of Texas, presented by H. R. W. Hill, Esq., of Nashville, Tennessee, and now in the "old capitol" at the city of Houston.

Sec. 2. That the sum of one hundred dollars or so much thereof as is necessary be, and the same is hereby appropriated

out of any money in the Treasury not otherwise appropriated to carry into effect this act.

Sec. 3. And this act shall take effect and be in force from and after its passage.

Approved, February 13, 1852.

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#### CHAPTER CXLV.

An Act for the relief of Marcello Granger and Michael Pevito.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be authorized and required to patent to Marcello Granger and Michael Pevito, their heirs or assigns, each, one labor of land on certificates numbers one hundred and sixty-four and one hundred and forty-three, issued by the board of Land Commissioners for Jefferson county, April 26, 1838.

Sec. 2. And that this act be in force from and after its passage.

Approved, February 13, 1852.

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#### CHAPTER CXLVI.

An Act to Incorporate the Texas Central Railroad Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That Memucan Hunt, Robert Mills, John H. Bennett, Hugh McQueen, Philip M. Cuney, William E. Crump, Leonard W. Groce, and such persons as they may associate with them for the purpose, and their successors be, and they are hereby created and established a body corporate and politic, under the name and title of "the Texas Central Railroad Company," with the capacity in said corporate name to make contracts, to have succession and a common seal, to make by-laws for its government and the regulation of its affairs, to sue and be sued, to plead and be impleaded, to grant and receive, and generally to do and perform all such acts and things as may be necessary or proper for, or incident to the fulfilment of its obligations or the maintenance of its rights under this act, and consistent with the constitution of the State.

Sec. 2. Said company is hereby inversed with the right to

locate, to construct, own and maintain a Railway, commencing at a suitable point on the Island or Bay of Galveston, and thence running by such course and to such points on the Brazos, Trinity or Red Rivers, as said company shall deem and determine to be most suitable, with the right of making, owning and maintaining such branches of said Railway, as they may deem expedient.

Sec. 3. Said Memucan Hunt, Robert Mills, John H. Bennett, Hugh McQueen, Philip M. Cuney, William E. Crump, Leonard W. Groce, and their associates, are hereby appointed commissioners and invested with the right of forming and organizing said company, and generally of exercising the powers of directors until directors are chosen or appointed, by such persons as may subscribe to the stock of said company, when the powers of said commissioners shall cease.

Sec. 4. The capital stock of said company to consist of all its property, real and personal, franchises and rights to property, shall be divided into shares of one hundred dollars each, each share entitling the owner thereof to one vote by himself or proxy at all meetings of said company; said shares shall be deemed personal estate, and shall be transferable by any conveyance in writing, recorded by the Treasurer in books kept by him at his office, or in such other manner as the by-laws of said company shall provide.

Sec. 5. The immediate government and direction of the affairs of said company shall be vested in a board of not less than six directors, who shall elect one of their own number as President of said company; no person shall be eligible to the office of director unless an owner or subscriber of at least five share of the stock of said company; the directors shall have the power to fill any vacancy that may occur in said board from non-election, death or otherwise, and may appoint a Secretary, Treasurer, and such other officers and agents, as they may consider necessary, and prescribe and require bonds for the faithful performance of their duties; they may, if not otherwise provided by the by-laws, determine the manner of conducting all meetings, the number of members that shall constitute a quorum, and to do or cause to be done all things which they may deem necessary and proper in conducting the matters of the company; they shall keep or cause to be kept, accurate records of all meetings of the directors and company, and accurate books of accounts of the receipts and expenditures of the company, and all other books necessary and proper to be kept by such company, which shall be open to the inspection of the stockholders; a majority

of the board of directors shall have the authority of a full board, and all conveyances and contracts, in writing, executed by the President and countersigned by the Secretary, or any other officer or person authorized by the directors under the seal of the company and in pursuance of a vote of said directors, shall be valid and binding.

Sec. 6. The shares may be disposed of and books open for subscription thereto, in such manner and on such terms as said commissioners shall determine will be best for the interest of said company, and any agreement in writing by which any person shall become a subscriber to the capital stock of said company, may be enforced against him according to its terms; and if any subscriber shall fail to pay any amount due upon shares subscribed by him according to the terms of his subscription, the directors may sell at auction and transfer to the purchaser the shares of such delinquent, and if the proceeds of sale shall not be sufficient to pay the amount due on said subscription with interest and charges, such delinquent shall be held liable to the company for the deficiency, and if the proceeds shall exceed the amount so due with interest and charges, said delinquent shall be entitled to the surplus.

Sec. 7. It shall be lawful for the company to enter upon and purchase or otherwise take and hold, any land necessary for the purpose of establishing and constructing said Railway, with all necessary depots and other buildings; and if they shall not be able to obtain said lands by agreement with the owner thereof, they shall pay therefor such compensation as shall be determined in the manner provided by the following section; provided, that the land so taken for the road bed, shall not exceed two hundred feet in width, and for depots and other buildings only such further width as shall be needed for such purposes.

Sec. 8. Any person, when land has been taken as aforesaid without agreement or satisfactory compensation, may apply to the District Court of the county in which said land is situated for the appointment of, and said court shall thereupon appoint three disinterested freeholders of the county who shall appoint a time and place to hear the applicant and the company, to whom shall be given by said freeholders reasonable notice of said time and place; and said freeholders shall, after being sworn, and after due hearing of the parties, determine the amount of compensation, if any, to which the applicant may be entitled and make return of their award to the next succeeding term of said court, and such award, if not rejected by said court for sufficient cause then shown, shall be entered up as the judg-

ment of said court; in determining the question of compensation, said freeholders shall be governed by the actual value of the land at the time it was taken, taking into consideration the benefit or injury done to the other lands and property of owner by the establishment of said Railway, and if the amount of compensation awarded by said freeholders shall not exceed the amount offered by said company to the owner prior to said application to the court, the applicant shall pay the costs of the proceedings, otherwise the company shall pay the same.

Sec. 9. It shall be the duty of said company whenever any State or county road now by law established shall be crossed by the track of said Railway, to make and keep in repair good and sufficient causeways at such crossings, and in all cases where any person shall own lands on both sides of said Railway, and there shall be no other convenient access from one part to the other, such owner shall have the right of passage free of costs at all reasonable times across the track of said Railroad.

Sec. 10. This company is hereby required at all reasonable times and for a reasonable compensation to draw over their road the passengers, merchandise and cars of any other railroad corporation which has been or may hereafter be authorized by the legislature, to enter with their railroad and connect with the railroad of this company, and if the respective companies shall be unable to agree upon the compensation aforesaid, it shall be the duty of the President of each company to select, each, one man as a commissioner, and the two commissioners so elected shall choose a third in case of disagreement, neither of whom shall be a stockholder in either road or interested therein, and they shall fix the rates which shall not be changed for one year from the time of going into effect; the said commissioners shall also fix the stated periods at which said cars are to be drawn as aforesaid, having reference to the convenience and interests of said corporation, and the public who will be accommodated thereby; the right or power is specially conferred on this said company to connect and contract with any railroad company chartered by this State for the performance of like transport, and in case of disagreement between said companies, the same shall be referred and settled as aforesaid, and be binding for one year as aforesaid.

Sec. 11. Said company may acquire real estate by gift or purchase, and such commissioners hereinbefore mentioned shall have full authority to solicit and receive subscriptions and conveyances of land to said company until the time fixed for the first meeting of said commissioners, which authority may be

then extended by said meeting; which said land so obtained shall be alienated by said company in the following manner, one-fourth in six years, one-fourth in eight years, one-fourth in ten years, and the one-fourth in twelve years from the time the same was acquired.

Sec. 12. If the track of this railway shall cross any navigable stream, it shall do it in such way as not to obstruct its navigation.

Sec. 13. Said company shall have the right to demand and receive such rates and prices for the transportation of passengers and freight as they may think proper to establish, not to exceed five cents per mile for passengers, and fifty cents per hundred pounds for freight for every hundred miles the same may be carried.

Sec. 14. If any person shall wilfully injure or obstruct said railway or its property, such person may be punished when prosecuted by indictment for said offence in due course of law, and also liable to action by said company or any person whatever, who may suffer in person or property from said wilful obstruction, for the amount of damages occasioned thereby.

Sec. 15. There shall be granted to said company eight sections of land of six hundred and forty acres each, for every mile of railway actually completed by them and ready for use; and upon the application of the President of the company, or any duly authorized agent thereof, stating that any section of five miles, or more of said railway has been completed and is ready for use, it shall be the duty of the Comptroller of public accounts to require the State Engineer, or a Commissioner to be appointed by the Governor, to examine said railway, and upon his certificate that said section of said railway has been completed in a good and substantial manner, and is ready for use, the Comptroller shall give information of that fact to the Commissioner of the General Land Office, whose duty it shall be to issue to said company, land certificates to the amount of eight sections of land, of six hundred and forty acres each, for each and every mile of railway thus completed and ready for use; such certificates shall be for six hundred and forty acres each, and shall be located upon any unappropriated public domain of the State of Texas, within twelve months from the issuing thereof, which date shall appear upon the face of each certificate: and upon the return of the field-notes of any survey made by virtue of any certificate thus issued, it shall be the duty of the Commissioner of the General Land Office to issue patents to said company in their corporate name: one-fourth of which said lands

thus patented shall be alienated by the company in six years, one-fourth in eight years, one-fourth in ten years, and the other fourth in twelve years, so that the whole of the lands thus granted shall pass from the hands of the company within twelve years from the date of the patents thus issued.

Sec. 16. Said company shall be required to have a good and sufficient brake upon the hindmost car in all trains transporting passengers or merchandise, and also permanently stationed there a trusty and skillful brakeman, under a penalty of not exceeding the sum of one hundred dollars for each offence, to be recovered in any court of competent jurisdiction for the benefit of the State; and said company shall cause to be placed to each locomotive engine passing over their road a bell of the weight of at least thirty-five pounds, or a steam whistle, and the said bell shall be rung or the whistle blown at the distance of at least eighty rods from the place of crossing any highway or turnpike, and kept ringing or blowing until the engine has stopped or passed; said company shall be required to construct their railroad with good T or U iron rails; provided, that no land shall be donated unless the company shall actually commence their road within two years, and actually complete and finish at least ten miles within three years.

Sec. 17. The meetings of the commissioners appointed by this act shall be held at such times and places as they may appoint, and in all such meetings said directors may act in person or by proxy.

Sec. 18. Nothing in this act shall be so construed as to confer banking privileges or powers of any kind whatever.

Sec. 19. If said railway shall not be commenced within five years from the passage of this act, and at least twenty miles thereof completed within six years, then this charter shall be null and void; and it is hereby provided and declared, that it shall be lawful for any other railway hereafter to be constructed to cross the said railway or any branch thereof, or to connect at any point therewith.

Sec. 20. The said company shall have the right to take and hold so much of the public lands, not exceeding two hundred feet wide as, the said railway or any of its branches may pass through for the tract thereof, and such additional width as may be absolutely necessary for any depot or other work for the purposes of the railway that the company may deem proper to establish, and in all cases where such railway or branch shall pass through any public lands, all such land to the depth of three miles from the exterior line of the track on each side

thereof shall be, and hereby are reserved for the State from and after the time such track shall be fixed or designated by survey, reconnoissance or otherwise; and the said lands, as fast as the road is constructed shall be divided into sections fronting one mile each on the road, which sections shall be numbered and the corners of such section on the road plainly marked; and of these reserved lands the company shall have the right by virtue of any of their certificates issued in accordance with the provisions of this act, to cause to be located, surveyed and patented for their use, each alternate section, such section in each instance embracing a tract of land fronting one mile on said road and extending back three miles preserving an equal width, and the remaining sections shall continue the property of the State until disposed of by the legislature.

Approved, February 14, 1852.

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#### CHAPTER CXLVII.

##### An Act to Incorporate the Texas and Louisiana Railroad Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That W. R. D. Ward, Thomas D. Wilson, E. M. Wilder, William S. Taylor, Robert H. Hord, Joseph Taylor, Morgan C. Hamilton and B. B. Cannon, and their associates and successors, be, and they are hereby created and established a body corporate and politic, under the name and title of the Texas and Louisiana Railroad Company, with the capacity in said corporate name, to make contracts, to have succession and a common seal; to make by-laws for its government, and regulation of its affairs; to sue and be sued; to plead and be impleaded; to grant and receive and generally to do and perform all such acts and things as may be necessary or proper for, or incident to the fulfilment of its obligations, or the maintenance of its rights under this act, and consistent with the constitution of the State.

Sec. 2. Said company is hereby invested with the right to locate, construct, own, and maintain a railway, commencing on the East boundary line of the State of Texas, in the county of Harrison, and thence running by the way of Marshall and Austin, by such course, and to El Paso on the Rio Grande, as said



company shall deem and determine to be most suitable, with the right of making, owning, and maintaining such branches of said railway, as they may deem expedient.

Sec. 3. The parties named in this act are hereby appointed commissioners, and invested with the right of forming and organizing said company, and generally of exercising the powers of directors, until directors are chosen or appointed by such persons as may subscribe to the stock of said company, when the powers of said commissioners shall cease.

Sec. 4. The capital stock of said company to consist of all its property, real and personal, franchises, and rights to property; shall be divided into shares of one hundred dollars each; each share entitling the owner thereof to one vote by himself, or proxy at all the meetings of said company; the said shares shall be deemed personal estate, and shall be transferable by any conveyance in writing, recorded by the treasurer, in books kept by him at his office, or in such other manner as the laws of said company shall provide.

Sec. 5. The immediate government and direction of the affairs of said company shall be vested in a board of not less than six directors, who shall elect one of their own number as President of said company; no person shall be eligible to the office of director, unless an owner or subscriber of at least five shares of the stock of said company; the directors shall have the power to fill any vacancy that may occur in said board from non-election, death or otherwise, and may appoint a Secretary and Treasurer, and such other officers and agents as they may consider necessary, and prescribe and require bonds for the faithful performance of their duties; they may, if not otherwise provided by the by-laws, determine the manner of conducting all meetings, the number of members that shall constitute a quorum, and to do, or cause to be done, all other lawful matters and things which they may deem necessary and proper in conducting the matters of the company; they shall keep or cause to be kept, accurate records of all meetings of the directors and company, and accurate books of accounts of the receipts and expenditures of the company, and all other books necessary and proper to be kept by such company, which shall be open to the inspection of the stockholders; a majority of the board of directors shall have the authority of a full board; and all conveyances and contracts in writing, executed by the President, and countersigned by the Secretary, or any other officer or person authorized by the directors, under

the seal of the company, and in pursuance of a vote of said directors, shall be valid and binding.

Sec. 6. The shares may be disposed of, and books opened for subscriptions thereto, in such manner and on such terms as said commisisoners shall determine will be best for the interests of said company; and any agreement in writing by which any person shall become a subscriber to the capital stock of said company, may be enforced against him according to its terms; and if any subscriber shall fail to pay any amount due upon shares subscribed by him, according to the terms of his subscription, the directors may sell at auction, and transfer to the purchaser the shares of such delinquent; and if the proceeds of sale shall not be sufficient to pay the amount due on said subscription, with interest and charges, such delinquent shall be held liable to the company for the deficiency, and if the proceeds shall exceed the amount so due, with interest and charges, said delinquent shall be entitled to the surplus.

Sec. 7. It shall be lawful for the company to enter upon and purchase, or otherwise take and hold any land necessary for the purpose of establishing and constructing said railway, with all necessary depots and other buildings; and if they shall not be able to obtain said lands by agreement with the owner thereof, they shall pay therefor such compensation as shall be determined in the manner provided by the following section; provided, that land so taken for the road bed, shall not exceed two hundred feet in width; and for depots and other buildings only such further width as shall be needed for such purposes.

Sec. 8. Any person, when land has been taken as aforesaid without agreement or satisfactory compensation, may apply to the District Court of the county in which said land is situated, for the appointment of, and said Court shall thereupon appoint three disinterested freeholders of the county, who shall appoint a time and place to hear the applicant and the company; to whom shall be given by said freeholders reasonable notice of said time and place, and said freeholders shall, after being sworn and after due hearing of the parties, determine the amount of compensation, if any, to which the applicant may be entitled, and make return of their award to the next succeeding term of said Court; and said award, if not rejected by said Court for sufficient cause then shown, shall be entered up as the judgment of said court. In determining the question of compensation, said freeholders shall be governed by the actual value of the land at the time it was taken, taking into consideration the benefit or injury done to the other lands and

property of the owner, by the establishment of said railway, and if the amount of compensation awarded by said freeholders shall not exceed the amount offered by said company to the owner, prior to said application to the Court, the applicant shall pay the costs of the proceedings, otherwise the company shall pay the same.

Sec. 9. It shall be the duty of said company, whenever any State or county road, now by law established, shall be crossed by the track of said railway, to make and keep in repair good and sufficient causeways at such crossings, and in all cases where any person shall own lands on both sides of said railway, and there shall be no other convenient access from one part to the other, such owner shall have the right of passage, free of costs, at all reasonable times across the track of said railway.

Sec. 10. This company is hereby required at all reasonable times, and for a reasonable compensation, to draw over their road the passengers, merchandise and cars of any other railroad corporation, which has been or may hereafter be authorized by the Legislature to enter with their railroad and connect with the railroad of this company; and if the respective companies shall be unable to agree upon the compensation aforesaid, it shall be the duty of the President of each company to select each one man as a commissioner, and if the President of either company refuses to appoint, the Governor shall appoint one, and the two commissioners so selected shall choose a third, in case of disagreement, neither of whom shall be a stockholder in either road, or interested therein, and they shall fix the rates, which shall not be changed for one year from the time of going into effect. The said commissioners shall also fix the stated periods at which said cars shall be drawn as aforesaid, having reference to the convenience and interests of said corporations, and the public who will be accommodated thereby. The right or power is specially conferred on said company to connect and contract with any railroad company chartered by this State, for the faithful performance of like transport, and in case of disagreement between said companies, the same shall be referred and settled as aforesaid, and be binding for one year as aforesaid.

Sec. 11. Said company may acquire real estate by gift or purchase, and such commissioners hereinbefore mentioned, shall have full authority to solicit and receive subscriptions and conveyances of land to said company until the time fixed for the first meeting of said commissioners, which authority may then be extended by said meeting, which said land so obtained, shall be alienated by said company in the following manner: one-

fourth in six years, the one-fourth in eight years, the one-fourth in ten years, and the other fourth in twelve years from the time the same was acquired.

Sec. 12. If the track of this railway shall cross any navigable stream, it shall do it in such a way as not to obstruct its navigation.

Sec. 13. Said company shall have the right to demand and receive such rates and prices for the transportation of passengers and freight as they may think proper to establish, not to exceed five cents per mile for passengers, and fifty cents per hundred pounds for freight for every hundred miles the same may be carried.

Sec. 14. If any person shall wilfully injure or obstruct said railway or its property such person may be punished, when prosecuted by indictment, for said offence in due course of law, and also liable to action by said company or any other person whatever, who may suffer in person or property from said wilful obstruction, for the amount of damages occasioned thereby.

Sec. 15. There shall be granted to said company eight sections of land of six hundred and forty acres each, for every mile of railway actually completed by them and ready for use; and upon the application of the President of the company, or any duly authorized agent thereof, stating that any section of five miles or more of said railway has been completed and is ready for use, it shall be the duty of the Comptroller of public accounts to require the State engineer, or a commissioner to be appointed by the Governor, to examine said railway, and upon his certificate that said section of said railway has been completed in a good and substantial manner, and is ready for use, the Comptroller shall give information of that fact to the Commissioner of the General Land Office, whose duty it shall be to issue to said company land certificates to the amount of eight sections of land, of six hundred and forty acres each, for each and every mile of railway thus completed and ready for use; such certificate shall be for six hundred and forty acres each, and shall be located upon any unappropriated public domain of the State of Texas, within twelve months from the issuing thereof, which date shall appear upon the face of each certificate, and upon the return of the field-notes of any survey made by virtue of any certificate thus issued, it shall be the duty of the Commissioner of the General Land Office to issue patents to said company in their corporate name; one-fourth of which said lands thus patented shall be alienated by the company in six years, one-fourth in eight years, one-fourth in ten years, and the other

fourth in twelve years, so that the whole of the lands thus granted shall pass from the hands of the company within twelve years from the date of the patents thus issued.

Sec. 16. Said company shall be required to have a good and sufficient brake upon the hindmost car in all trains transporting passengers or merchandize, and also permanently stationed there, a trusty and skillful brakeman under a penalty of not exceeding the sum of one hundred dollars, for each offence, to be recovered in any court of competent jurisdiction for the benefit of the State; and said company shall cause to be placed on each locomotive engine passing on this road, a bell of at least the weight of thirty-five pounds, or a steam whistle, and the said bell shall be rung, or the whistle blown, at the distance of at least eighty rods from the place of crossing any highway or turnpike, and kept ringing or blowing until the engine has passed or stopped; said company shall be required to construct their railroad with good T or U iron rails; provided, that no land shall be donated unless the company shall actually commence their road within two years, and actually complete and finish at least ten miles within three years.

Sec. 17. The first meeting of the commissioners or directors appointed by this act, shall be held at Marshall, on the first Monday in May next, in which and in all subsequent meetings said directors may act in person or by proxy.

Sec. 18. Nothing in this act shall be so construed as to confer banking privileges or powers of any kind whatever.

Sec. 19. If said railway shall not be commenced within five years from the passage of this act, and at least twenty miles thereof are not completed within six years, then this charter shall be null and void; and it is hereby provided and declared, that it shall be lawful for any other railway thereof to be constructed to cross the said railway or any branch thereof, or to connect at any point therewith.

Approved, February 14, 1852.

## CHAPTER CXLVIII.

## An Act supplementary to the act to establish the Galveston and Red River Railway Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That all that portion of the act to establish the Galveston and Red River Railway Company, approved the 11th of March, 1848, contained in the 4th section, and all the subsequent sections thereof, be, and the same are hereby repealed; and whereas, it is desirable to preserve uniformity in the several acts establishing railway companies passed by this legislature, the following provisions are hereby adopted at the instance of the commissioners named in the said original act for the government, formation and observance of the company thereby established.

Sec. 2. That the meetings of the Commissioners provided for by this act and the said original act, may be held at such times and places as they may appoint, and at said meetings the Commissioners may act in person or by proxy.

Sec. 3. The capital stock of said company to consist of all its property, real and personal, franchises and rights to property, shall be divided into shares of one hundred dollars each, each share entitling the owner thereof to one vote by himself or proxy at all meetings of said company; that said shares shall be deemed personal estate, and shall be transferable by any conveyance in writing, recorded by the Treasurer in books kept by him at his office, or in such other manner as the by-laws of said company shall provide.

Sec. 4. The immediate government and direction of the affairs of said company shall be vested in a board of not less than six directors, who shall elect one of their own number as President of said company; no person shall be eligible to the office of director unless an owner or subscriber of at least five shares of the stock of said company; the directors shall have the power to fill any vacancy that may occur in aid board from non-election, death or otherwise, and may appoint a Secretary, Treasurer and such other officers and agents, as they may consider necessary, and prescribe and require bonds for the faithful performance of their duties; they may, if not otherwise provided by the by-laws, determine the manner of conducting all meetings, the number of members that shall constitute a quorum, and to do or cause to be done all other lawful matters and things which they may deem necessary and proper in conducting the mat-

ters of the company; they shall keep or cause to be kept, accurate records of all meetings of the directors and company, and accurate books of accounts of the receipts and expenditures of the company, and all other books necessary and proper to be kept by such company, which shall be open to the inspection of the stockholders; a majority of the board of directors shall have the authority of a full board, and all conveyances and contracts, in writing executed by the President and countersigned by the Secretary, or any other officer or person authorized by the directors under the seal of the company and in pursuance of a vote of said directors, shall be valid and binding.

Sec. 5. The shares may be disposed of and books open for subscription thereto, in such manner and on such terms as said commissioners shall determine will be best for the interest of said company, and any agreement in writing by which any person shall become a subscriber to the capital stock of said company, may be enforced against him according to its terms; and if any subscriber shall fail to pay any amount due upon shares subscribed by him according to the terms of his subscription, the directors may sell at auction and transfer to the purchaser the shares of such delinquent, and if the proceeds of sale shall not be sufficient to pay the amount due on said subscription with interest and charges, such delinquent shall be held liable to the company for the deficiency, and if the proceeds shall exceed the amount so due with interest and charges, said delinquent shall be entitled to the surplus.

Sec. 6. It shall be lawful for the company to enter upon and purchase or otherwise take and hold, any land necessary for the purpose of establishing and constructing said Railway, with all necessary depots and other buildings; and if they shall not be able to obtain said lands by agreement with the owner thereof, they shall pay therefor such compensation as shall be determined in the manner provided by the following section; provided, that the land so taken for the road bed, shall not exceed two hundred feet in width, and for depots and other buildings only such further width as shall be needed for such purposes.

Sec. 7. Any person, when land has been taken as aforesaid without agreement or satisfactory compensation, may apply to the District Court of the county in which said land is situated for the appointment of, and the court shall thereupon appoint three disinterested freeholders of the county who shall appoint a time and place to hear the applicant and the company, to whom shall be given by said freeholders reasonable notice of said time and place; and said freeholders shall, after being

sworn, and after due hearing of the parties, determine the amount of compensation, if any, to which the applicant may be entitled and make return of their award to the next succeeding term of said court, and said award, if not rejected by said court for sufficient cause then shown, shall be entered up as the judgment of said court; in determining the question of compensation, said freeholders shall be governed by the actual value of the land at the time it was taken, taking into consideration the benefit or injury done to the other lands and property of the owner by the establishment of said Railway, and if the amount of compensation awarded by said freeholders shall not exceed the amount offered by said company to the owner prior to said application to the court, the applicant shall pay the costs of the proceedings, otherwise the company shall pay the same.

Sec. 8. It shall be the duty of said company whenever any State or county road now by law established shall be crossed by the track of said railway, to make and keep in repair good and sufficient causeways at such crossings, and in all cases where any person shall own lands on both sides of said railway, and there shall be no other convenient access from one part to the other, such owner shall have the right of passage free of costs at all reasonable times across the track of said railway.

Sec. 9. This company is hereby required at all reasonable times and for a reasonable compensation to draw over their road the passengers, merchandise and cars of any other railroad corporation which has been or may hereafter be authorized by the legislature, to enter with their railroad and connect with the railroad of this company, and if the respective companies shall be unable to agree upon the compensation aforesaid, it shall be the duty of the President of each company to select, each, one man as a commissioner, and the two commissioners so selected shall choose a third in case of disagreement, neither of whom shall be a stockholder in either road or interested therein, and they shall fix the rates which shall not be changed for one year from the time of going into effect; the said commissioners shall also fix the stated periods at which said cars are to be drawn as aforesaid, having reference to the convenience and interests of said corporation, and the public who will be accommodated thereby; the right or power is specially conferred on this said company to connect and contract with any railroad company chartered by this State for the performance of like transport, and in case of disagreement between said companies, the same shall be referred and settled as aforesaid, to be binding for one year as aforesaid.



Sec. 10. That said company may acquire real estate by gift or purchase, and that such commissioners hereinbefore mentioned shall have full authority to solicit and receive subscriptions and conveyances of land to said company until the time fixed for the first meeting of said commissioners, which authority may be then extended by said meeting; which land so obtained shall be alienated by said company in the following manner, one-fourth in six years, one-fourth in eight years, one-fourth in ten years, and the one-fourth in twelve years from the time the same was acquired.

Sec. 11. If the track of this railway shall cross any navigable stream, it shall do it in such way as not to obstruct its navigation.

Sec. 12. Said company shall have the right to demand and receive such rates and prices for the transportation of passengers and freight as they may think proper to establish, not to exceed five cents per mile for passengers, and fifty cents per hundred pounds for freight for every hundred miles the same may be carried.

Sec. 13. If any person shall wilfully injure or obstruct said railway or its property, such person may be punished when prosecuted by indictment for said offence in due course of law, and also liable to action by said company or any person whatever, who may suffer in person or property from said wilful obstruction, for the amount of damages occasioned thereby.

Sec. 14. There shall be granted to said company eight sections of land of six hundred and forty acres each, for every mile of railway actually completed by them and ready for use; and upon the application of the President of the company, or any duly authorized agent thereof, stating that any section of five miles, or more of said railway has been completed and is ready for use, it shall be the duty of the Comptroller of public accounts to require the State Engineer, or a Commissioner to be appointed by the Governor, to examine said railway, and upon his certificate that said section of said railway has been completed in a good and substantial manner, and is ready for use, the Comptroller shall give information of that fact to the Commissioner of the General Land Office, whose duty it shall be to issue to said company, land certificates to the amount of eight sections of land, of six hundred and forty acres each, for each and every mile of railway thus completed and ready for use; such certificates shall be for six hundred and forty acres each, and shall be located upon any unappropriated public domain of the State of Texas, within twelve months from the issuing thereof, which

date shall appear upon the face of each certificate; and upon the return of the field-notes of any survey made by virtue of any certificate thus issued, it shall be the duty of the Commissioner of the General Land Office to issue patents to said company in their corporate name; one-fourth of which said lands thus patented shall be alienated by the company in six years, one-fourth in eight years, one-fourth in ten years, and the other fourth in twelve years, so that the whole of the lands thus granted shall pass from the hands of the company within twelve years from the date of the patents thus issued.

Sec. 15. Said company shall be required to have a good and sufficient brake upon the hindmost car in all trains transporting passengers or merchandise, and also permanently stationed there a trusty and skillful brakeman, under a penalty of not exceeding the sum of one hundred dollars for each offence, to be recovered in any court of competent jurisdiction for the benefit of the State; and said company shall cause to be placed on each locomotive engine passing over their road a bell of the weight of at least thirty-five pounds, or a steam whistle, and the said bell shall be rung or the whistle blown at the distance of at least eighty rods from the place of crossing any highway or turnpike, and kept ringing or blowing until the engine has passed or stopped; said company shall be required to construct their railroad with good T or U iron rails; provided, that no land shall be donated unless the company shall actually commence their road within two years, and actually complete and finish at least ten miles within three years.

Sec. 16. Nothing in this act shall be so construed as to confer banking privileges or powers of any kind whatever.

Sec. 17. If said railway shall not be commenced within five years from the passage of this act, and at least twenty miles thereof completed within six years, then this charter shall be null and void; and it is hereby provided and declared, that it shall be lawful for any other railway hereafter to be constructed to cross the said railway or any branch thereof, or to connect at any point therewith.

Sec. 18. The said company shall have the right to take and hold so much of the public lands, not exceeding two hundred feet wide as, the said railway or any of its branches may pass through for the tract thereof, and such additional width as may be absolutely necessary for any depot or other work for the purposes of the railway that the company may deem proper to establish, and in all cases where such railway or branch shall pass through any public lands, all such land to the depth of

three miles from the exterior line of the track on each side thereof shall be, and hereby are reserved for the State from and after the time such track shall be fixed or designated by survey, reconnoissance or otherwise; and the said lands, as fast as the road is constructed shall be divided into sections fronting one mile each on the road, which sections shall be numbered and the corners of such section on the road plainly marked; and of these reserved lands the company shall have the right by virtue of any of their certificates issued in accordance with the provisions of this act, to cause to be located, surveyed and patented for their use, each alternate section, such section in each instance embracing a tract of land fronting one mile on said road and extending back three miles preserving an equal width, and the remaining sections shall continue the property of the State until disposed of by the legislature.

Approved, February 14, 1852.

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#### CHAPTER CXLIX.

An Act for the relief of James Gross, Henderson Lofton, Landon Walker and Henderson Walker.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office, be, and he is hereby required to issue a certificate for six hundred and forty acres of land, each, to James Gross and Henderson Lofton; and, also, a certificate for three hundred and twenty acres of land, each, to Landon Walker and Henderson Walker; provided, he is satisfied from an examination of his office, that said claims have not been satisfied.

Sec. 2. That this act shall take effect from its passage.

Approved, February 13, 1852.

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#### CHAPTER CL.

An Act to admit William J. M. Whaley and Webster Flanagan, to Practice Law in the several Courts of this State.

Section 1. Be it enacted by the Legislature of the State of Texas, That William J. M. Whaley and Webster Flanagan be, and they are hereby admitted to practice law in all the coun-

ties of this State; provided, that the said William J. M. Whaley and Webster Flanagan, after undergoing an examination as required by law, be deemed qualified for admission, and provided also, that the said William J. M. Whaley and Webster Flanagan shall not by their minority, be exempt from liability upon their professional engagements.

Sec. 2. That this act take effect from and after its passage.

Approved, February 13, 1852.

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#### CHAPTER CLI.

An Act for the relief of Wright Coley, of Robertson county.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office, be, and he is hereby authorized and required to issue to Wright Coley, a certificate for fourteen and a half labors of land, the same being the balance due him as a headright.

Sec. 2. That said certificate may be located upon any of the unappropriated public domain of this State, subject to like dues and fees as in similar cases.

Sec. 3. And that this act take effect from its passage.

Approved, February 13, 1852.

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#### CHAPTER CLII.

An Act for the relief of the Heirs of Elizabeth Porter, deceased.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office, be, and he is hereby authorized and required to issue to the heirs of Elizabeth Porter, deceased, a certificate for one league and labor of land.

Sec. 2. That the said certificate shall be located and surveyed in the same manner in all respects, as first class headright certificates.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved, February 13, 1852.

CHAPTER CLIII.

An Act for the relief of John Blair.

Section 1. Be it enacted by the Legislature of the State of Texas. That the Auditor and Comptroller of Public Accounts, of the State of Texas, be, and they are hereby authorized and required to issue to John Blair, a duplicate certificate in lieu of audited scrip, number two thousand four hundred and forty-two, issued to said Blair, on the 8th day of June, A. D. 1837, for one hundred and four dollars and twelve cents, which is lost.

Sec. 2. This act shall take effect and be in force from and after its passage.

Approved, February 13, 1852.

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CHAPTER CLIV.

An Act for the relief of Mary Nail.

Section 1. Be it enacted by the Legislature of the State of Texas. That the Commissioner of the General Land Office be, and he is hereby required to issue a certificate for six hundred and forty acres of land to Mary Nail, the same being her headright which she is entitled to as the head of a family, and citizen of the Republic of Texas, in eighteen hundred and thirty-seven.

Sec. 2. That the said certificate may be located on any unappropriated public domain of this State; and upon the return of field-notes, the Commissioner shall issue patent as in other cases similar to this.

Sec. 3. And this act to be in force from and after its passage.

Approved, February 13, 1852.

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CHAPTER CLV.

An Act for the relief of Jacob Shannon, administrator of Daniel Warren, deceased.

Section 1. Be it enacted by the Legislature of the State of Texas. That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to Jacob

Shannon, administrator of Daniel Warren, deceased, a certificate for one-third of a league of land.

Sec. 2. That the certificate shall be located and surveyed in the same manner in all respects, as first class headright certificates.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved, February 13, 1852.

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#### CHAPTER CLVI.

##### An Act for the relief of Jefferson C. Parish.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to Jefferson C. Parish, of Fannin county, an additional certificate for three hundred and twenty acres of land.

Sec. 2. That said certificate when issued shall be located, surveyed and patented as all other claims are surveyed and patented.

Sec. 3. That this act take effect from and after its passage.

Approved, February 13, 1852.

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#### CHAPTER CLVII.

##### An Act for the relief of Henry J. McKenzie, a colonist of Mercer's colony.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office of the State of Texas, be authorized and required to issue a certificate for six hundred and forty acres of land to Henry J. McKenzie, which certificate shall be located and surveyed within the limits of Mercer's colony.

Sec. 2. That when said certificate shall have been located and surveyed as aforesaid, and the field notes returned to the Commissioner of the General Land Office, it shall be the duty of said Commissioner to issue a patent thereon, as in other cases.

Sec. 3. That this act take effect from and after its passage.

Approved February 13, 1852.

CHAPTER CLVIII.

**An Act to amend the several acts for the Incorporation of the City of Austin.**

Section 1. Be it enacted by the Legislature of the State of Texas, That the limits of the City of Austin shall be the same as the site selected by the commissioners, appointed under an act of the Congress of the Republic of Texas, dated January the fourteenth, one thousand eight hundred and thirty-nine, for locating permanently the Seat of Government, being bounded as follows: beginning at a point in the channel of the Colorado river where the west line of West Avenue intersects the same; thence up said line to the south line of North Avenue; thence with said line to Shoal creek; thence up said creek to the north line of Division E out lots; thence eastward with said line to the east line of an extension of East Avenue, so as to include the Cemetery; thence to and with the east line of said Avenue to Water Avenue; thence with the south line of Water Avenue to Waller Creek; thence down the same with its left bank to the channel of the Colorado river, and thence up said river to the place of beginning.

Sec. 2. The city council of said city shall have power to levy and collect a tax on all persons and property, both real and personal in said city; provided, however, that the same shall not in any one year exceed one-fourth of one per cent. ad valorem on such property.

Sec. 3. It shall be the duty of the Marshal of said city to notify all persons who shall have an ad valorem tax to pay to the corporation of the said city, the day on which such tax shall become due, and of the place where he shall keep his office, by notice inserted in a newspaper of said city, and posted in three of the most public places in said city, for two months previous to the said day; and it shall be the duty of every person owing a tax as aforesaid, to pay the same or cause the same to be paid at the office of said Marshal; and thirty days after the day fixed for the payment of said taxes, the said Marshal shall seize and levy upon any property real or personal, belonging to such persons as shall have neglected to pay said tax, and after advertising in some newspaper in said city for ten days, cause the same to be sold at public auction to the highest bidder for cash, or so much thereof as will pay such taxes, together with the costs of advertising and selling; provided, however, that in all cases where the taxes and the costs of advertising

shall be paid previous to the day of sale of said property, the Marshal shall not sell, but deliver over the property so seized to the owner thereof; and, provided, the owner of any real estate their heirs, assigns or legal representatives, shall have the privilege of redeeming such real estate so sold, within twelve months from the date of said sale, upon paying the purchaser or purchasers, his, her or their assigns, or legal representatives, or depositing in the city Treasury for his, her or their use, the amount of such taxes with costs and charges, and an advance of one hundred per cent.

Sec. 4. That the city council of said city shall have power to levy and collect an annual license tax, not exceeding those specified in this section, viz: fifty dollars on all merchants, and an additional license tax of ten dollars when spirituous liquors in quantities of one quart and over are sold; twenty-five dollars on all grog-shops, tipling-houses, or places where spirituous liquors are sold in quantities less than one quart; twenty dollars on each billiard-table; twenty dollars on each nine or ten-pin alley; twenty-five dollars on each tavern or public boarding house, where spirituous liquors are sold; ten dollars on each restarau or eating house; ten dollars on each tavern or house of entertainment, having five or more boarders, where spirituous liquors are not sold.

Sec. 5. Every person from whom an annual license tax shall be due in accordance with the foregoing section, shall be, and is hereby required to pay over the same to the city Treasurer, who shall issue a license for the same.

Sec. 6. When any person shall fail or refuse to pay the tax as contemplated in the preceding section, before engaging in any vocation or calling in said city, on which such tax is imposed, it shall be the duty of the Marshal of said city forthwith to levy on any property of such person, to be found within the limits of said city, sufficient to pay the amount of such tax for one year and all costs, and sell the same at public auction to the highest bidder for cash, after advertising the same for ten days, by putting up a notice thereof in three public places in said city.

Sec. 7. The second and eighteenth sections of an act to incorporate the city of Austin, passed May 11th, 1846, and the first section of an act to amend said act, passed September 5th, 1850, and all laws and parts of laws conflicting with the provisions of this act are hereby repealed, except as to the collection of taxes heretofore levied; provided, that this act shall not be con-



strued to conflict in any manner with the right of landing heretofore granted Messrs. Grumbles and Tarbox.

Sec. 8. This act shall be in force from its passage.

Approved, February 14, 1852.

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## CHAPTER CLIX.

### An Act to Incorporate the LaGrange Collegiate Institute.

Section 1. Be it enacted by the Legislature of the State of Texas, That William F. Hodge, William B. McLellan, Crockett Pevy, John T. Holman, Issac B. McFarland, Lewis L. Williams, Barkley Townsend, Chas. Braches, Alfred Smith, A. Jones and J. M. Blake, and their successors in office, be and they are hereby constituted a board of Trustees, of an institution of learning established at the town of LaGrange, Fayette county, under the supervision and control of the Colorado Presbytery of the Cumberland Presbyterian Church, which said institution is hereby incorporated by the name of the "LaGrange Collegiate Institute," by which name it may sue and be sued, plead and be impleaded, and buy and sell property, real and personal, and mixed, and hold the same. The said institute may have a common seal for the transaction of its business, which seal it shall have power to make and alter at pleasure.

Sec. 2. A majority of trustees shall constitute a quorum to transact all ordinary business for the corporation. They shall have power to make such by-laws as they may think necessary for the government of the institution and its finances; provided, such by-laws are not inconsistent with the constitution and laws of the United States and of this State. They shall also have power to elect their own officers, appoint their own committees, examine into any branch or department of said institution, and to appoint or dismiss tutors; but it shall require the concurrence of two-thirds of all the trustees to elect or remove the President or any one of the Professors.

Sec. 3. The board of trustees shall hold their offices until their successors are elected; and said board shall be filled by the Colorado Presbytery of the Cumberland Presbyterian Church, at its first meeting in the year one thousand eight hundred and fifty-two, and every two years thereafter; provided, that said trustees shall be eligible to re-election; and, provided, further, that the board of trustees shall have the power to

fill vacancies temporarily; but vacancies shall only be filled permanently by said Presbytery.

Sec. 4. The trustees of said institute shall have a stated meeting once in each year, at which time they shall have the power to confer the usual degrees upon men distinguished in science and literature; and shall also have the power, upon the recommendation of the faculty, to confer the usual degrees upon deserving students, and to grant diplomas for the same; provided, that said diplomas shall be first signed by a majority of the faculty of said institute.

Sec. 5. The trustees shall have power to fix the salaries of all officers connected with said institute; provided, that it shall require the concurrence of a majority of all the trustees to fix or alter the salary of any officer.

Sec. 6. The President of the institute shall be ex-officio President of the Board of Trustees, and shall have power to convene said board whenever he may see proper, but shall have no vote in said board, except in case of a tie, and no other member of the board of trustees shall hold any office in said institute.

Sec. 7. The board of trustees shall have the power to establish a preparatory department, as well as college proper, and also professorships, scholarships and fellowships in said institute; provided, that the beneficiaries be subject to the same rules and by-laws as other students.

Sec. 8. No religious test shall be required of any President, Professor, Tutor or Scholar; nor shall any one be punished on account of his opinions, religious or political; provided, that nothing herein contained shall prevent the trustees of said institute from inflicting suitable punishment for all immoral conduct.

Sec. 9. Should the board of trustees hereafter see proper to establish a Theological Professorship in said institute, the Professor thereof shall be elected or removed only by the Colorado Presbytery of the Cumberland Presbyterian Church, and said Professor shall not be subject to the first clause of the eighth section of this act.

Sec. 10. All donations and bequests to said institute shall be good and binding, although the corporate name of said institute may not have been properly stated by the person making such donation or bequest.

Sec. 11. The seal of the corporation, with the attestation of the Secretary, and the signature of the President, or in his ab-

sence, a majority of the trustees, shall be sufficient to authenticate any act of the corporation.

Sec. 12. A majority of the trustees shall have the right to call a meeting of the board whenever they may think proper.

Sec. 13. The board of trustees shall annually report to said Presbytery the condition of said institute, and of its finances.

Sec. 14. Said institute shall not hold more than one hundred thousand dollars worth of property, over and above the institute buildings and ground on which the same may be situated, and the library and apparatus of said institute, and the funds belonging, or in anywise appertaining to said institute, shall not be diverted from the primary object for which the same were donated.

Approved, February 14, 1852.

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## CHAPTER CLX.

### An Act to incorporate the Town of Greenville.

Section 1. Be it enacted by the Legislature of the State of Texas, That the citizens of the town of Greenville, be, and they are hereby declared a body incorporate, by the name and style of the corporation of the town of Greenville, and by that name may sue and be sued, plead and be impleaded, and may hold and dispose of real and personal estate.

Sec. 2. That the limits of said corporation shall be one-fourth of a mile square, of which the Courthouse of the county of Hunt, in the said town of Greenville, shall be the centre.

Sec. 3. That an election for Mayor, five Aldermen, a Treasurer, a Recorder and a Constable shall be held as soon as practicable after the passage of this act, by the Chief Justice, or one of the County Commissioners of Hunt county, according to the laws governing elections generally; and annually thereafter, for a similar purpose, an election shall be conducted by the Mayor or a majority of the Aldermen acting at the time of such election, and the persons elected shall continue in office one year, or until their successors are duly qualified; and the annual election for Mayor and Aldermen shall be held at such place in the town of Greenville as may be designated by the board, for the convenience of the people.

Sec. 4. That whenever a vacancy shall occur in the office of Mayor, a majority of the Aldermen acting shall order and con-

duct an election to fill such vacancy, and the person so elected shall hold his office until the next regular election, or until his successor be duly qualified; and in case of the death, resignation, or removal of any of the Aldermen, the Treasurer or Constable, the Mayor shall order an election under such rules and regulations as may be prescribed by the board to fill such vacancy.

Sec. 5. That no person shall be eligible to the office of Mayor, Alderman, Treasurer or Constable, unless such person be a citizen of said town.

Sec. 6. That the Mayor shall be President of the board of Aldermen; that three of the members of said board shall constitute a quorum to transact business, and that said board shall enact such by-laws for the government of said town, not inconsistent with the constitution and laws of the State, as may be deemed proper, and may impose fines for the infraction or disobedience of the same not exceeding twenty dollars for such offense.

Sec. 8. That the board of Aldermen shall have and exercise control over the public square and streets of said town, and may compel all free male citizens, ministers of the gospel excepted, over the age of seventeen years, and under that of forty-five, to work on the same; provided, that such person shall not be required to work more than six days in any one year, and shall be exempt from all other road duty in said county; and the board may impose such fines on defaulters as they may deem necessary, in which they shall be governed by the laws of this State regulating roads.

Sec. 8. That the board of Aldermen shall have power to levy a tax on all persons and property, both real and personal, in said town, subject to taxation by the laws of the State; provided, that the tax on property shall not, in any one year, exceed one-half of one per cent. ad valorem on such property, and no tax shall be levied unless by a vote of two-thirds of the members present; which shall be assessed and collected by the Constable in the same manner as the State tax is collected.

Sec. 9. That the board of Aldermen shall have power to appoint such additional officers, with the regulation of their duties and compensation, as may be necessary, and may require of them bond and security to the Mayor, in such sum as may be deemed necessary to compel the efficient discharge of such duties as may be assigned them.

Sec. 10. That all offences against the by-laws be presented before the Mayor, and governed by the laws organizing Jus-

tices Courts, and the Constable shall execute and return all writs issued by the Mayor in the same manner as is provided by the law defining the duties of Constables.

Sec. 11. That the Constable shall give bond and security, as required by other Constables, and shall have the same power, and be entitled to the same fees for similar services.

Sec. 12. That the Mayor of said town shall be entitled to such fees as may be allowed Justices of the Peace, for similar services, together with such other compensation as may be allowed him by a majority of the Aldermen present at the time of such allowance.

Sec. 13. That the Aldermen shall be entitled to such compensation as may be allowed by a majority of the board; provided, that in no case the sum shall exceed two dollars per day for each day they may be required to sit as such Aldermen.

Sec. 14. That the Treasurer shall safely keep all the money of said corporation; shall pay out the same upon the order of the board, and shall do such other duty as may be assigned him by the by-laws, and shall give bond and security, payable to the Mayor, in such sum as may be deemed proper, conditioned for the faithful performance of his duties, to be approved by the board, and shall be allowed such compensation as may be specified by the board of Aldermen.

Sec. 15. That the books and records of the corporation shall at all times be open for the examination of any citizen of said town.

Sec. 16. And that this act take effect and be in force from and after its passage.

Approved, February 14, 1852.

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## CHAPTER CLXI.

### An Act to incorporate the Town of Larissa.

Section 1. Be it enacted by the Legislature of the State of Texas, That the citizens of the town of Larissa, be, and they are hereby declared a body corporate, by the name and style of the corporation of the town of Larissa, and by that name may sue and be sued, plead and be impleaded, and may hold and dispose of real and personal estate.

Sec. 2. That the limits of said corporation shall be one

mile square of which the centre of the public square of said town shall be the centre.

Sec. 3. That an election for a Mayor, five Aldermen, a Treasurer, Recorder and a Constable shall be held as soon as practicable after the passage of this act, by the Chief Justice, or one of the Commissioners of Cherokee county, according to the laws governing elections generally; and annually thereafter, for the purpose, an election shall be conducted by the Mayor or a majority of the Aldermen acting at the time of such election, and the persons elected shall continue in office one year, or until their successors are duly qualified; and the annual election for Mayor and Aldermen shall be held at such place in the town of Larissa, as may be designated by the board, for the convenience of the people.

Sec. 4. That whenever a vacancy shall occur in the office of Mayor, a majority of the Aldermen acting shall order and conduct an election to fill such vacancy, and the person so elected shall hold his office until the next regular election, or until his successor be duly qualified; and in case of the death, resignation, or removal of any Alderman, Treasurer or Constable, the Mayor shall order an election under such rules and regulations as may be prescribed by the board to fill such vacancy.

Sec. 5. That no person shall be eligible to the office of Mayor, Alderman, Treasurer or Constable, unless such person be a citizen of said town.

Sec. 6. That the Mayor shall be President of the board of Aldermen; that three of the members of said board shall constitute a quorum to transact business, and that said board shall enact such by-laws for the government of said town, not inconsistent with the constitution and laws of the State, as may be deemed proper, and may impose fines for the disobedience of the same, not exceeding twenty dollars for any one offence.

Sec. 7. That the board of Aldermen shall have and exercise control over the public square and streets of said town, and may compel all free male citizens, ministers of the gospel excepted, over the age of seventeen years, and under that of forty-five, to work on the same; provided, that such person shall not be required to work more than six days in any one year, and shall be exempt from other road duty in said county; and the board may impose such fines on defaulters as they may deem necessary, in which they shall be governed by the laws of this State regulating roads.

Sec. 8. That the board of Aldermen shall have power to

levy a tax on all persons and property, both real and personal, in said town, subject to taxation by the laws of the State; provided, that the tax on property shall not, in any one year, exceed one-fourth of one per cent. ad valorem on such property, and no tax shall be levied unless by a vote of two-thirds of the members present; which shall be assessed and collected by the Constable in the same manner as the State tax is collected.

Sec. 9. That the board of Aldermen shall have power to appoint such additional officers, with the regulation of their duties and with such compensation, as may be necessary, and may require of them bond and security to the Mayor, in such sum as may be deemed requisite to compel the efficient discharge of such duties as may be assigned to them.

Sec. 10. That all offences against the by-laws be presented before the Mayor, and governed by the law organizing Justices Courts, and the Constable shall execute and return all writs issued by the Mayor, in the same manner as is provided by the law defining the duties of Constables.

Sec. 11. That the Constable shall give bond and security as required by other Constables, and shall have the same powers, and be entitled to the same fees for similar services.

Sec. 12. That the Mayor of said town shall be entitled to such fees as may be allowed Justices of the Peace for similar services, together with such other compensation as may be allowed him by a majority of the Aldermen present at the time of such allowance.

Sec. 13. That the Aldermen shall be entitled to such compensation as may be allowed them by a majority of the board; provided, that in no case the same shall exceed two dollars per day for each day they may be required to sit is such Aldermen.

Sec. 14. That the Treasurer shall keep safely for the use of said corporation all things which may belong to said corporation, and be placed in his charge. He shall not pay out any money belonging to the corporation without an order of the board, signed by the Mayor and Secretary. Said Treasurer shall perform such other duties as may be assigned him by the by-laws, and he shall give bond and security, payable to the Mayor in such sum as may be deemed proper, conditioned for the faithful performance of his duties, to be approved by the board, and shall be allowed such compensation as may be specified by the board of Aldermen.

Sec. 15. That the Mayor be, and he is hereby vested with

all the powers and jurisdiction of a Justice of the Peace within the limits of said corporation.

Sec. 16. That all white males over the age of seventeen years, liable to work on the streets of said town, shall be allowed to vote in the election of the corporation officers.

Sec. 17. That the books and records of the corporation shall at all times be open for the examination of any citizen of said town.

Sec. 18. That this act take effect and be in force from and after its passage.

Approved, February 14, 1851.

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## CHAPTER CLXII.

An Act supplementary to an act to Incorporate the San Antonio Railway Company, approved September 5th, 1850.

Section 1. Be it enacted by the Legislature of the State of Texas, That there shall be granted to the San Antonio and Mexican Gulf Railroad Company, eight sections of land of six hundred and forty acres each, for every mile of railway actually completed by them and ready for use; and upon the application of the President of the company or any duly authorised agent thereof, stating that any section of five miles or more of said railway has been completed and is ready for use, it shall be the duty of the Comptroller of Public Accounts to require the State engineer, or a commissioner to be appointed by the Governor, to examine said railway, and upon his certificate that said section of said railway has been completed in a good and substantial manner and is ready for use, the Comptroller shall give information of that fact to the Commissioner of the General Land Office, whose duty it shall be to issue to said company land certificates to the amount of eight sections of land of six hundred and forty acres each, for each and every mile of railway thus completed and ready for use; such certificate shall be for six hundred and forty acres each, and shall be located upon any unappropriated public domain of the State of Texas, within twelve months from the issuing thereof, which date shall appear upon the face of each certificate, and upon the return of the field-notes of any survey made by virtue of any certificate thus issued, it shall be the duty of the Commissioner of the General Land Office to issue patents to said company, in their corporate name; one-fourth of which said lands thus patented shall be alienated by the company in six years, one-fourth in eight years, one-fourth in ten years, and one-fourth in twelve years, so that



the whole of the lands thus granted shall pass from the hands of the company within twelve years from the date of the patents thus issued.

Sec. 2. This company is hereby required, at all reasonable times and for a reasonable compensation, to draw over their road the passengers, merchandise and cars of any other railroad corporation which has been or may hereafter be authorized by the legislature, to enter with their railroad and connect with the railroad of this company, and if the respective companies shall be unable to agree upon the compensation aforesaid, it shall be the duty of the President of each company to select each one man as a commissioner, and the two commissioners so selected shall choose a third in case of disagreement, neither of whom shall be a stockholder in either road or interested therein, and they shall fix the rates, which shall not be changed for one year from the time of going into effect; the said commissioners shall also fix the stated periods at which said cars are to be drawn as aforesaid, having reference to the convenience and interests of said corporations and the public who will be accommodated thereby; the right or power is especially conferred on this said company to connect and contract with any railroad company chartered by this State for the performance of like transport, and in case of disagreement between said companies, the same shall be referred and settled as aforesaid, and be binding for one year as aforesaid.

Sec. 3. Said company shall be required to have a good and sufficient brake upon the hindmost car in all trains transporting passengers or merchandise, and also permanently stationed there a trusty and skilful brakeman, under a penalty of not exceeding the sum of one hundred dollars for each offence, to be recovered in any court of competent jurisdiction, for the benefit of the State; and said company shall cause to be placed on each locomotive engine passing over their road, a bell of the weight of at least thirty-five pounds, or a steam whistle, and the said bell shall be rung or the whistle blown at the distance of at least eighty rods from the place of crossing any highway or turnpike, and kept ringing or blowing until the engine has passed or stopped; said company shall be required to construct their railroad with good T or U iron rails; provided, that no land shall be donated unless the company shall actually commence their road within two years and actually complete and finish at least ten miles within three years; and that this act shall take effect from its passage.

Approved, February 14, 1852.

## CHAPTER CLXIII.

## An Act to Incorporate White Oak Bridge and Turnpike Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That Jonathan W. Dabbs, and such persons as he may associate with him, are hereby incorporated under the name and style of the "White Oak Bridge and Turnpike Company;" and under such name may sue and be sued, and have succession for twenty years from and after the passage of this act; they may also have a corporate seal, and also, the right of holding such real and personal property as may be necessary for carrying out the object of this incorporation.

Sec. 2. That it shall be the duty of said Company, within two years after the first day of August, 1852, to construct a good and substantial bridge across the White Oak river where the present Dabbs' bridge road crosses said stream, and to construct good and substantial bridges across the main sloughs which run through the river bottom at the crossing of said road, and shall throw up a turnpike and erect sufficient bridges wherever the same may be necessary in said bottom, and shall make a good and convenient road through said bottom, all to be constructed above ordinary high water mark, and it shall be the duty of said company to keep said bridges and road so constructed in a good state of repair during the aforesaid period of twenty years.

Sec. 3. That it shall be the duty of the County Court of Titus county, at the request of said company, to appoint three commissioners, whose duty it shall be to inspect said bridges and road, and if said commissioners shall find the same completed in accordance with this act, they shall give said company a certificate of the fact, upon the receipt of said certificate the said company may erect upon any portion of said road or upon any of the bridges a toll-gate, at which they may collect and receive toll, at not exceeding the following rates, to-wit: for each road wagon and four wheel pleasure carriage, fifty cents; every other vehicle, twenty-five cents; man and horse, ten cents; single horse, five cents; footman, five cents; cattle per head, two cts.; sheep and hogs, one cent per head.

Sec. 4. That the commissioners appointed under this act shall hold their office for the term of one year, and until their successors shall be appointed by the Court aforesaid; and it shall be their duty at any time when said road or bridges be out of order and unfit for travel, to direct said toll-gate to be thrown open,

and so to continue until said road and bridges shall have been put in order by said company.

Sec. 5. That it shall be the duty of said Commissioners to inspect said bridges and road at least twice a year, for which they shall receive two dollars per day, to be paid by said company.

Sec. 6. That if any person traveling on said road, or crossing on any of said bridges, shall wilfully go around said toll-gate, for the purpose of evading the payment of the toll levied by this act, shall forfeit and pay to the company five dollars and cost of suit for each and every offence; to be recovered before any Justice of the Peace in whose jurisdiction such person may be found.

Sec. 7. That it shall be the duty of the said Jonathan W. Dabbs to notify the Chief Justice of Titus county, in writing, within three months from the passage of this act, that he accepts the same; and in case said Dabbs fails in giving such notice, it shall then be the duty of said Chief Justice to assign this charter to some responsible person applying for the same, for the purpose of undertaking and carrying out the proposed work.

Sec. 8. That the rights, powers and privileges of this act invested in the said Dabbs and associates, may be transferred and assigned to any other responsible person or persons by said company, and such assignees shall have all the rights and subject to all the restrictions of the original company.

Sec. 9. That this act be in force from and after its passage.

Approved, February 14, 1852.

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## CHAPTER CLXIV.

### An Act for the relief of Harriett Merritt and Heirs.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be authorized and required to issue Harriett Merritt, or her heirs, a certificate for six hundred and forty acres of land, which may be located and patented as second class headright certificates.

Sec. 2. And that this act take effect and be in force from and after its passage.

Approved, February 14, 1852.

## CHAPTER CLXV.

## An Act for the relief of George Eaton.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be required to issue to George Eaton, a certificate for three hundred and twenty acres of land, and that said certificate shall be entitled to all the rights known to the law, governing land certificates.

Sec. 2. That this act take effect from and after its passage.

Approved, February 14, 1852.

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## CHAPTER CLXVI.

## An Act for the relief of Alexander Ewing.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Comptroller of Public Accounts is hereby authorized and required to issue to Alexander Ewing, a duplicate certificate of the public debt of the Republic, for one thousand dollars, being in lieu of an audited certificate for that amount for services, etc., as Surgeon General in the Army of the Republic of Texas, which certificate was lost in the Auditor's Office.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved, February 14, 1852.

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## CHAPTER CLXVII.

## An Act for the relief of John Brown, "Red."

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner General of the Land Office be authorized and required to issue to John Brown "Red," a certificate for six hundred and forty acres of land; which may be located upon any vacant or unappropriated public domain in the State of Texas; and upon the returns of a legal survey to the General Land Office, a patent shall issue thereon, upon the ap-

plicant paying government dues and patenting fees, as by law now required.

Sec. 2. And that this act shall take effect and be in force from and after its passage.

Approved, February 14, 1852.

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CHAPTER CLXVIII.

An Act for the relief of Jacob DeCordova, Isaac D. Parker and Edward Wood.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required upon due and sufficient showing, obtained from the maps and records of his office or otherwise, to cancel and annual patent, numbered three hundred and forty-seven, recorded volume 6, of the records of the General Land Office, issued to Jacob DeCordova as assignee of Lawrence Sundberg, for three hundred and twenty acres of land, lying in Houston county; and also, to cancel and annual patent, number two hundred and seventeen, recorded in volume 6, of said records, issued to Isaac D. Parker, for three hundred and twenty acres of land lying in Houston county; and it is hereby made the duty of said commissioner to deliver to said Jacob DeCordova and Isaac D. Parker, or their legal representatives, each, the respective certificates or land warrants, upon which said patents were issued.

Sec. 2. That the said certificates or land warrants may be located and surveyed, and patented as in other cases, upon the payment of the fees accruing upon the labor and trouble incident to the cancelling of said patents, and upon payment of the patent fees for the same.

Sec. 3. That Edward Wood be entitled to the benefits of this act.

Sec. 4. That this act take effect from and after its passage.

Approved, February 14, 1852.

## CHAPTER CLXIX.

An Act for the relief of Joseph H. Wood.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Treasurer of the State of Texas is hereby authorized and required, to pay to Joseph H. Wood or order, one hundred and thirty-seven dollars and sixteen cents, out of any money in the Treasury not otherwise appropriated, for transportation and storage of public arms.

Sec. 2. That this act take effect from its passage.

Approved, February 14, 1852.

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## CHAPTER CLXX.

An Act for the benefit of George W. Martin, who was permanently disabled in the Cherokee Indian War.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized to issue to George W. Martin, a certificate for one-third of a league of land, which may be surveyed and patented as other lands.

Sec. 2. Be it further enacted, that this act take effect from and after its passage.

Approved, February 14, 1852.

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## CHAPTER CLXXI.

An Act to incorporate the Aransas Road Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That John W. Hodges, Barton Peck, Robert W. Lott, T. P. C. Lott, Joseph H. Barnard, Jackson L. McKenney, James Burnes, Samuel Holliday, Alexander Cromwell, John H. Woods, David Shelton, James S. Bailey and Pryor Lea, or any three of them, as Commissioners, may organize a joint-stock company, to consist of the persons before named, or any of them, and their associates and successors, on such legal terms as they may adopt, for the purposes herein stated; and such company, when organized, shall be a body politic and corporate by the name of "The Aransas Road Company," and in that name may have succession and a common seal, sue and

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be sued, make and execute contracts, and do all other things necessary or proper for promoting the objects of this charter; and, to that end, may make any appropriate by-laws and regulations not inconsistent with the constitution and other laws.

Sec. 2. Said company may construct and maintain a principal turnpike road from any point on or near Aransas Bay or any arm thereof, to any point within or near the town of Goliad; and also any turnpike branches or extensions of the principal road, in such directions and to such distances as the company may think proper; and may, at any time, on or near the track of any part of the principal turnpike, as a substitute for such part, construct and maintain a railroad, with like privilege of branches or extensions therefrom, either by turnpike or railroad.

Sec. 3. To aid in the constructing and maintaining of said roads generally, or any particular thereof, the company may acquire real property by purchase or donation, or in payment for stock; and may sell, exchange, mortgage or otherwise dispose thereof, for money or any necessary article or purpose.

Sec. 4. Said company may have condemned for its purposes, as to any of said roads, a sufficient quantity of land not exceeding one hundred feet in width along the track thereof, and two acres at each toll-gate or depot thereof; and in such case the District Court of the county in which the land may be situated shall have jurisdiction; the proceedings generally to be as in ordinary suits; but the petition shall be on oath of the President or some other officer of the company, and shall particularly describe and define the land to be condemned, and state the name and residence of every owner if known, or that the ownership in whole or part, is not known, and summons shall be issued accordingly and served in the usual way as to every owner who may appear to be known and in the State, or by publication as to others in the usual mode for non-residents; and on the hearing a jury shall determine the compensation to be paid for the land; and thereupon the Court shall decree condemnation on payment of the compensation by the company, to the owner or owners, or into the Court for him or them; and any party may have an appeal or writ of error, as in ordinary suits; and the decree of condemnation and corresponding payment shall entitle the company to the use of said land for said road; provided, that the company shall pay the costs of such proceeding, except that when a case shall be litigated, the costs shall be paid as in ordinary suits.

Sec. 5. Said turnpike roads shall be well constructed and

maintained as such, by grading, draining, causewaying and bridging as may be necessary to the width of thirty feet for the ordinary tracks, and of fifteen feet for causeways and bridges; and said railroads shall be well constructed and maintained and enclosed, but with suitable gates, so as to prevent the intrusion of live stock; and any of said turnpike or railroads may have connection or crossing mutually with any other public road, or authorized private way; but the more recent road or way shall be so made as not to interfere unnecessarily or essentially with the use of the former; and any navigable water-course may be crossed by any of said roads by a bridge with a draw where necessary, and so as not to obstruct the navigation of such water-course; and the construction of said principal turnpike shall be commenced by the first day of January, eighteen hundred and fifty-three, and be completed so that the road shall be fit for use within three years thereafter, or this charter shall be void.

Sec. 6. Until twenty years after the time fixed, as aforesaid, for completing said principal turnpike, and until twenty years after the completion of any branch or extension thereof, severally, the company may charge and receive tolls thereon, as follows: for every bridge thereof in length over fifty feet, on each vehicle having four wheels, and team not exceeding six animals, twenty cents; on each vehicle having two wheels, and team not exceeding two animals, ten cents; on each animal extra belonging to a team, one and a fourth cents; on each passenger riding his animal, five cents; on each passenger on foot, two and a half cents; on each sheep, goat or hog in a drove, half a cent; on each other animal in a drove, one cent; on each animal not before described, two and a half cents; and for every twenty miles thereof, when in proper condition for hauling and traveling, the same tolls; and for any shorter distance thereof in like condition, in proportion to those rates. On any part of said railroads the company shall have the continued right to charge and receive for transporting passengers, not exceeding the rate, for each, of five cents per mile, and for freights not exceeding the rates of half a cent a pound, or fourth of a cent a cubic foot per mile; or such rates as may be stipulated. Any of said tolls or charges may be collected, as the company may think proper, before or during the use or transportation, or subsequently, as other debts.

Sec. 7. There shall be granted to said company eight sections of land of six hundred and forty acres each, for every mile of railroad actually completed and ready for use, as provided



herein, and on application of President of the company, or any duly authorized agent thereof, stating that any section of five miles or more of said railway has been completed and is ready for use, it shall be the duty of the Comptroller of public accounts to require the State engineer, or a commissioner to be appointed by the Governor, to examine said railroad, and on his certificate that said section of said railroad has been completed in a good and substantial manner with good T or U iron rails, and is ready for use, the Comptroller shall give information of that fact to the Commissioner of the General Land Office, whose duty it shall be to issue to said company land certificates to the amount of eight sections of land, of six hundred and forty acres each, for each and every mile of railroad thus completed and ready for use; and such certificates shall be for six hundred and forty acres each, and shall be located on any unappropriated public domain of the State of Texas, within twelve months from the issuing thereof, which date shall appear on the face of each certificate; and on the return of the field notes of any survey made by virtue of any certificate thus issued, it shall be the duty of the Commissioner of the General Land Office to issue a patent to said company in its corporate name; provided, that five miles of said railroad shall be completed as aforesaid, in one year from the time fixed for completing said principal turnpike; and provided, that one-fourth of the land thus patented, and of all other lands acquired by said company, except a space along the track of the road, not more than a hundred feet in width, and not more than ten acres at each toll-gate or depot thereof, shall be alienated in whole tracts or or parts, in six years, one-fourth in eight years, one-fourth in ten years, and the other fourth in twelve years from the dates of the patents or deeds respectively, by which said company shall have acquired the lands; and if the company, within the limited times, should not alienate such portions respectively, the same, on complaint of any person, by decree of the District Court of any county in which any of the lands to be sold may be situated, may be sold at ordinary sales by execution, for the benefit of the company, but at its costs; and such Court shall have jurisdiction for such purpose.

Sec. 8. This company and any other may so contract and execute, that any railroad to be made by either may become part, or the whole of a railroad to be made by the other, and so fulfill any obligation on either, or on both, in any respect, but particularly a connection with the Gulf of Mexico; for which connection, that with the bay, as provided herein, shall be a sufficient

performance; and the ownership and use of such road, or any part, and of the proceeds may be according to contract between such parties; and in all other respects the rights and privileges of the respective companies shall continue as if such contracts had not been made.

Sec. 9. This company may unite its railroads with those of any other company, at any eligible points, and in suitable modes, so that the locomotives, cars, passengers and freights of this company may pass on and along the roads of the other company; and any other company may unite its railroads with those of this company in the same way; and this company, when its road shall be in ordinary use, shall without unreasonable delay, and on reasonable terms, allow the other company to convey its cars, passengers and freights along the road of this company, unless this company will do so as it may for the other; and the companies may agree on the terms for the whole or any part of such transportation; but, if they should fail to agree, from want of proper representatives, or any other cause, the Governor of the State, on the petition of either party, and on reasonable notice to the other party, shall appoint a commission, and fill its vacancies in like manner, to consist of three Commissioners, who shall, on reasonable notice to the parties interested, proceed to fix the terms for such transportation, including modes, times and rates; and the decision of a majority of said commissioners shall be obligatory on said companies, until the terms shall be altered, as may be done by Commissioners appointed and acting in the same way; but no such alteration shall be made within one year after a decision shall have been made. The Commissioners shall be entitled to reasonable compensation for their services and expenses, half of which shall be paid by each company.

Sec. 10. This company shall have a good brake and suitable brakemen on the rear of every train when transporting passengers or freights; and shall have a suitable steam-whistle on each locomotive, which whistle shall be blown while the locomotive may be running, by steam power, along said railroad, within eighty rods of a place of crossing a road of any kind; and on failure in any of these cases, the company shall forfeit any amount not exceeding one hundred dollars, that may be adjudged against said company, by any court having jurisdiction of demands of that amount; and any person may institute such suit, subject to payment of costs on failure, and shall be entitled to half the recovery, the other half going to the State.

Approved, February 14. 1852.

CHAPTER CLXXII.

An Act for the relief of Thomas Hennessee, and others therein named.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and is hereby authorized to issue to Thomas Hennessee a certificate for one-third of a league of land; and also to the heirs of John J. Ogsberry, a certificate for one-third of a league; also to the heirs of Peter K. Bartleson, a certificate for one league and labor of land; and also to the heirs of Nathaniel Green, a certificate for six hundred and forty acres of land; provided, that the Commissioner be satisfied that the said claimants have not previously received their headrights; and that the said certificates shall be located and surveyed upon any of the unappropriated lands of the State, and patented an payment of government dues, as in other cases provided.

Sec. 2. That this act shall take effect from its passage.

Approved, February 13, 1852.

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CHAPTER CLXXIII.

An Act for the relief of Louis Kratz.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office is hereby authorized and required to issue a certificate for one league of land to Louis Kratz, upon the payment of the established charges in such cases.

Sec. 2. This act shall take effect from its passage.

Approved, February 14, 1852.

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CHAPTER CLXXIV.

An Act granting one league of land to Francis M. Dimond, late United States Consul at Vera Cruz, in consideration of moneys expended, and many acts of kindness extended to the Texas prisoners in Mexico in 1842 and 1843.

Section 1. Be it enacted by the Legislature of the State of Texas. That the Commissioner of the General Land Office be,

and he is hereby authorized and required to issue to Francis M. Dimond, late United States Consul at Vera Cruz, in consideration of moneys expended, and many acts of kindness extended to the Texas prisoners in Mexico in 1842 and 1843, a certificate for one league of land, and which certificate may be located, surveyed and patented as all first class claims.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved, February 16, 1852.

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#### CHAPTER CLXXV.

An Act for the relief of Thomas J. Freeman.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to Thomas J. Freeman, a certificate for six hundred and forty acres of land, which said certificate may be located on any vacant and unappropriated land in this State; and that this act take effect from and after its passage.

Approved, February 16, 1852.

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#### CHAPTER CLXXVI.

An Act for the relief of Bluford Brooks and Mastin Latham.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to Bluford Brooks and Mastin Latham, each, a certificate for one labor of land, which may be located, surveyed and patented as all first class certificates.

Sec. 2. And that this act to be in force from and after its passage.

Approved, February 16, 1852.

CHAPTER CLXXVII.

An Act for the relief of Elijah Emberson and Samuel E. Doss.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office issue to Elijah Emberson and Samuel E. Doss, each, a certificate for three hundred and twenty acres of land, to be located and patented as other third class certificates.

Sec. 2. And that this act take effect from its passage.

Approved, February 16, 1852.

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CHAPTER CLXXVIII.

An Act for the relief of the heirs of Joseph G. Snodgrass.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby required to issue a certificate for one-third of a league of land to the heirs of Joseph G. Snodgrass, deceased; provided, that he shall be satisfied, from an examination of the archives of his office, that neither said Snodgrass nor his heirs have heretofore received a certificate for his headright.

Sec. 2. This act shall take effect from its passage.

Approved, February 16, 1852.

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CHAPTER CLXXIX.

An Act donating a league of land to the Widow and Orphans of Major William S. Henry, deceased.

Whereas, Major William S. Henry, during his life, by his friendship for Texas, and his advocacy of her just rights, at a time when his kind offices were of much value to the State, subjected himself to censure and reproof from the (then) existing authorities, as well as to pecuniary loss; and, whereas, it is apparent that by his untimely death his widow and orphan children are left in straitened circumstances; therefore, as a token of the estimation in which we hold his services, and of our sympathy with his family—

Section 1. Be it enacted by the Legislature of the State of

Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to the widow and children of the said William S. Henry, deceased, a certificate for one league of land; which certificate may be located upon any vacant and unappropriated domain of the State.

Sec. 2. That the said certificate, when located and surveyed and returned with the field-notes as in other cases, shall be sufficient authority to the Commissioner of the General Land Office, to issue to the widow and children of the said Henry, a patent for the said amount of one league of land without charge; and that this act take effect from and after its passage.

Approved, February 16, 1852.

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## CHAPTER CLXXX.

### An Act to incorporate the City of Corpus Christi.

Section 1. Be it enacted by the Legislature of the State of Texas, That the citizens of the City of Corpus Christi in Nueces county, be, and they are hereby declared a body politic and corporate, under the name and style of the "City of Corpus Christi;" and by that name shall have power to sue and be sued, plead and be impleaded, and to have and use a common seal, and to hold and dispose of real and personal property; provided, such real property is situated within the limits of said corporation.

Sec. 2. That it shall be the duty of the citizens of said corporation to elect a Mayor, seven Aldermen, Marshal, Treasurer and Secretary; the Treasurer and the Marshal being required to give bond with security, to be approved by the presiding officer, for the faithful performance of their several duties, and to make reports when required by the Mayor or Board of Aldermen; also, the Mayor and Aldermen shall have full power and authority to appoint other officers for the government of said city, under such restrictions and conditions as they may deem necessary.

Sec. 3. That the first election shall be held under the direction of the Chief Justice of said county, after having given ten days notice thereof, and annually thereafter under the direction of the Mayor, at least ten days before the expiration of his term of office; and in case of vacancy by death, resignation or otherwise, the vacancy or vacancies shall be filled by new elections

to be ordered by the Mayor, and in case the office of Mayor shall be vacant, then the Aldermen shall elect one of their own body to act as Mayor until the next annual election.

Sec. 4. That no person shall be eligible to any office under the provisions of this charter, who is not a citizen of this State and a resident within the limits of the incorporation; nor shall any person have a right to vote for officers who is not a citizen and resides within the limits of the corporation, and at the time of his voting being the owner of real estate or house-holder, and shall have resided during the period of six months immediately preceding such election, within the corporation.

Sec. 5. That the Mayor and board of Aldermen of said corporation shall have power to pass such by-laws, rules and ordinances as may be necessary for the regulation of the police, and the preservation of order within the corporation limits, to levy taxes for the removal of nuisances and keeping the streets in good order; provided, said taxes shall not exceed one-fourth of the amount of taxes assessed and levied by the State on the property taxed in said city; and to prescribe penalties for the violation of the ordinances and by-laws of the corporation, but in no case shall such penalties exceed one hundred dollars.

Sec. 6. That the Mayor and Aldermen shall have the power to grant licenses to all billiard tables, nine or tenpin-alleys, coffee-houses, groceries or any place of amusement in said city, and shall have the right to charge for such licenses any sums not exceeding the amount required by law for the license of similar places of amusement by the laws of the State; and any person conducting such establishments without obtaining such license and against the ordinances of the corporation, shall be subject to a fine not exceeding twenty dollars for every month they shall so conduct such establishment without a license, to be used for and recovered in the name of the Mayor of said city, before any Justice of the Peace or other court having competent jurisdiction of the same.

Sec. 7. That the Mayor, with a majority of said Aldermen, shall constitute a quorum for the transaction of business, and shall enact and enforce such rules and regulations as they may deem necessary for the government of said corporation; provided, the same do not conflict with the constitution and laws of this State, and with the provisions of this charter.

Sec. 8. That the limits of said corporation shall extend one mile north and south from E. Ohler's wharf, and two miles west from the Bay or front street of said city of Corpus Christi.

Sec. 9. That the act incorporating the town of Corpus Christi, approved the 12th day of April, A. D., 1846, be, and the same is hereby repealed; and that this act take effect from and after its passage.

Approved, February 16, 1852.

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#### CHAPTER CLXXXI.

An Act granting further time to Adolphus Glavecke, former Assessor and Collector of Cameron county, to settle his account with the Comptroller of the State, under certain conditions.

Section 1. Be it enacted by the Legislature of the State of Texas, That Adolphus Glavecke, former Assessor and Collector of Cameron county, be, and he is hereby allowed until the first day of the next regular session of the Legislature of this State, to settle his account as Assessor and Collector aforesaid with the Comptroller, upon the said Adolphus Glavecke's executing a bond with two or more good and sufficient sureties, to be approved by the county court of Cameron county, for double the amount of his indebtedness to the State; conditioned for the payment of said indebtedness, which bond shall be deposited in the office of the Comptroller, and be liable to be put in suit as other bonds; provided, that nothing in this act shall be so construed as to release the said Adolphus Glavecke or his sureties from their liability on their bond already executed.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved, February 16, 1852.

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#### CHAPTER CLXXXII.

An Act for the relief of John Blair.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office of the State of Texas, be, and he is hereby authorized to issue a patent to John Blair, for one league and one labor of land, located by virtue of certificate number six hundred and seventeen. issued to said Blair by the Board of Land Commissioners of Harris county, for one-third of a league of land, dated July 5th.



1838; and certificate number one thousand five hundred and seventeen, county court number one hundred and thirty, issued to said Blair as his augmentation, by the Board of Land Commissioners of San Augustine, for two-thirds of a league and labor of land, **dated July 4th, 1839**; provided, said survey shall have been made in conformity to law; and, provided further, that the said John Blair shall pay the government dues required under existing laws.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved, February 16, 1852.

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### CHAPTER CLXXXIII.

An Act granting to E. M. Gray the privilege of constructing a Toll Bridge across the West Fork of Angelina river.

Section 1. Be it enacted by the Legislature of the State of Texas, That the privilege is hereby granted E. M. Gray, his heirs or assigns, and he or they are hereby authorized to construct a bridge across the west fork of the Angelina river, commonly called Mud Creek, at or near his ferry on the road leading from the town of Rusk, in the county of Cherokee, to the town of Henderson, in Rusk county, and to causeway the creek bottom, and construct bridges across the sloughs on both sides of the main channel of said creek, so as to make the way passable in safety at all times.

Sec. 2. That the bridges and improvement contemplated to be made in the preceding section, shall be made and contemplated within two years from the date of the passage of this act, and that the privilege hereby granted shall extend and enure to the said E. M. Gray, his heirs or assigns, for and during the space of twenty years from and after the date aforesaid.

Sec. 3. That whenever said bridges and causeways shall have been constructed, made and completed, and shall have been examined and reported in good order and repair by the commissioners appointed for that purpose, in the manner prescribed by this act, the proprietor may erect a toll-gate at some convenient place in the immediate vicinity of his bridge, and demand and receive at said gate, from all and every person passing over said bridge, toll according to the following rates, viz: for all carriages and wagons, ten cents per wheel, and five cents per head

for the team thereto attached; for horse and rider, ten cents; for footmen, five cents; for loose horses and mules, five cents per head; cattle per head, two and a half cents; hogs, sheep and goats, one and a half cent per head.

Sec. 4. That the county court of Cherokee county, shall appoint two commissioners on the application of the proprietor of such toll bridge, citizens of said county, whose duty it shall be to examine and approve said bridge across the main channel, as well as the causeways and bridges on each side of the creek, authorised by this act to be constructed and made, and report the same whenever completed and in good order to said county court, at a regular quarterly session thereof.

Sec. 5. That the commissioners appointed under the provisions of this act, shall hold their office for the term of two years from the time of their appointment, and until successors shall have been appointed; and it shall be the duty of the said county court to appoint commissioners biennially to examine and report at least twice in each and every year, the condition of the bridges and causeways herein authorised to be constructed and made by the said E. M. Gray, his heirs or assigns, for which service the said commissioners shall each receive one dollar per day, for the time they may be necessarily employed in the discharge of the duties hereby imposed on them, to be paid by the proprietor, for the time being, of such privileged improvement.

Sec 6. That whenever the bridges or either of them, or the causeways hereby authorized to be constructed and made, shall be found out of repair and in bad order, the toll-gate shall be sit open and remain open until such bridge or bridges and causeways shall have been repaired and examined by the commissioners appointed for that purpose, as herein provided; and all and every person or persons crossing over on the bridge constructed across the main channel of the creek, who shall wilfully go around said toll-gate, for the purpose of evading the payment of the toll levied by virtue of this act, shall forfeit and pay the proprietor for the time being the sum of five dollars and costs of suit for every such offence. to be recovered before any Justice of the Peace in whose jurisdiction such person may be found.

Sec. 7. That this act shall take effect and be in force from and after its passage.

Approved, February 16, 1852.

CHAPTER CLXXXIV.

An Act to Incorporate the Little Cypress Bridge Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That William Ward, and such other persons as the said Ward may associate with himself, are hereby incorporated under the name and style of the "Little Cypress Bridge Company;" that they and their successors shall constitute a body corporate and politic for the period of twenty-five years; that under their corporate name they shall be competent to contract for, buy, receive, hold and possess any property, either real or personal, that may be necessary for the purposes which this act contemplates; that they may have authority to sue and be sued, and may have power to bind themselves with or without a seal, and to make their own rules and regulations for the building of a bridge across the Little Cypress, at or near Ward's Mills, in the county of Upshur, in conformity with the provisions of this act.

Sec. 2. That it shall be the duty of said company to construct within five years from the passage of this act, a good and substantial bridge across said stream at the place mentioned in the first section of this act, and shall keep said bridge in good repair for the period of the duration of this corporation, or charter; and that said company shall have the right of charge on persons, carriages, horses, cattle, sheep, goats or other stock, such rates of toll as may be allowed by the county court of Upshur county, upon application of said company to appoint three commissioners, whose duty it shall be to inspect said bridge, and if found to be built in accordance with this act, then the said court shall proceed to affix rates, which said company may charge each person, vehicle or animal, for crossing said bridge.

Sec. 3. That if any person shall wilfully fail or refuse to pay the tolls after crossing said bridge, he shall be liable to forfeit and pay to said company the sum of five dollars and the cost of suit in such case, for each wilful failure or refusal so to pay, and that said company shall be held liable for all damages that may occur to any person or their property in crossing said bridge, in consequence of the same being in bad repair, or from any bad management or wilful misconduct on the part of said company, or any agent or agents of said company.

Sec. 4. That at any time after the completion of said bridge, if the county court of Upshur county may think it to be the interest of said county, they may appoint three commissioners

by and with the consent of said bridge company, whose duty it shall be to assess or determine the value of said bridge, and upon their report of its value, the said court may pay to said company, out of the funds of said county, the said amount, and in the event of the company receiving said sum, then the right to said bridge shall vest in said county, and be controlled and used as such for all time to come.

Sec. 5. That this act take effect and be in force from and after the passage thereof.

Approved, February 16, 1852.

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#### CHAPTER CLXXXV.

An Act for the relief of James B. Dorsey and Merrit Barrett.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to James B. Dorsey and Merrit Barrett, soldiers of the army of the late Republic of Texas, a certificate, each, for one-third of a league of land as their headright; which may be located upon any unappropriated domain within the State, and upon a return of the field-notes of any such location and survey thereon to the General Land Office, the Commissioner of the General Land Office shall issue a patent thereon, according to existing law.

Sec. 2. That this act shall take effect from its passage.

Approved, February 16, 1852.

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#### CHAPTER CLXXXVI.

An Act for the relief of the Heirs at law of William Wilkinson, deceased.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office is hereby authorized and required, to issue a certificate for six hundred and forty acres of land to the heirs at law of William Wilkinson, deceased, upon the same terms and conditions as required by law in other cases.

Sec. 2. That this act shall take effect from its passage.

Approved, February 16, 1852.

CHAPTER CLXXXVII.

An Act for the relief of Joel B. Hardin and Peter High, Colonists of Mercer's Colony.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized to issue to Joel B. Hardin and to Peter High, severally, certificates for six hundred and forty acres of land, (640 acres each,) to which they are entitled by three year's residence in Mercer's colony, previous to the 25th day of October, 1848.

Sec. 2. That previous to the issuance of said certificates the parties or either of them applying, shall take and subscribe an oath, before some authority competent to administer the same, and having a seal of office, that he has never received any land from the Government by virtue of his emigration hither, which affidavit shall be filed in the General Land Office.

Sec. 3. That this act take effect from and after its passage.

Approved, February 16, 1852.

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CHAPTER CLXXXVIII.

An Act supplementary to an act granting certain powers to the Corporation of Galveston City, approved December 8th, 1851.

Section 1. Be it enacted by the Legislature of the State of Texas, That nothing contained in the act to which this act is a supplement, shall be so construed as to alter or impair any of the rights heretofore conveyed to "Michael B. Menard, his heirs and assigns," by patent from the late Republic of Texas, dated the 25th day of January, A. D. 1838; nor shall it be so construed as to authorise the corporation of the city of Galveston to interfere with any wharf improvement, erected in good faith by individuals prior to the passage of said act; provided, that this act shall not be construed so as to prevent the Mayor, Aldermen and inhabitants of the city of Galveston from erecting wharves, and collecting wharfage in front of streets running from the Gulf to the Bay, not occupied at the time of the passage of this act by wharves owned by individuals.

Sec. 2. The express condition of this act is, that the Galveston City Company, to whom said Menard conveyed, have not

conveyed nor attempted to convey to any one, the north half of block numbered six hundred and eighty-two, in the plan of said city of Galveston, nor the land and appurtenances north of said block, between said block and the channel of the Bay; and upon the further condition, that this act shall not take effect, but shall be null and void, unless the said Galveston City Company do, on or before the first day of May next, execute and deliver to the Mayor, Aldermen and inhabitants of the city of Galveston, a good and valid deed in fee simple clear of all incumbrances, to all the land and appurtenances whatsoever described in the first part of this section.

Approved, February 16, 1852.

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#### CHAPTER CLXXXIX.

##### An Act for the relief of Daniel C. Clark.

Section 1. Be it enacted by the Legislature of the State of Texas, That Daniel C. Clark be declared of lawful age, and that all the acts of the said Clark shall be, and is hereby declared valid and good in law.

Sec. 2. And that this act take effect and be in force from and after its passage.

Approved, February 16, 1852.

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#### CHAPTER CXC.

##### An Act for the relief of the Heirs of Joseph Stewart, deceased.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to the heirs of Joseph Stewart, deceased, a certificate for one league and one labor of land; which certificate shall be located, surveyed and patented as other first class headright certificates; and that this act take effect and be in force from and after its passage.

Approved, February 16, 1852.

CHAPTER CXCI.

An Act for the relief of William R. Smith, Edenton Thompson, A. M. Franks, Henry C. Lentz, David Andrews, Hardy K. Ware, W. D. Thompson, Samuel J. C. M. Patton, Henrietta Kling, the Heirs of Joel Wilson, the Heirs of William L. Foster, and the Heirs of Daniel Manin.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby required and authorized to issue to William R. Smith, a certificate for six hundred and forty acres of land; also, to David Andrews, Henrietta Kling, the heirs of Joel Wilson, and the heirs of Daniel Manier, each, a certificate for six hundred and forty acres, being the amount to which they were respectively entitled by virtue of their emigration to Texas; also, to Edenton Thompson, A. M. Franks, Henry C. Lentz, Hardy K. Ware, W. D. Chapman, Samuel J. C. M. Patton and the heirs of William C. Foster, each, a certificate for three hundred and twenty acres of land, being the amount to which they were entitled under the laws existing at the time of their emigration.

Sec. 2. That said certificates may be located on any vacant and unappropriated land in this State, and that the Commissioner be, and he is hereby required, upon the return of the field-notes, to issue patents thereon upon the payment of fees and government dues according to the requirements of the law; provided, that the Commissioner of the General Land Office shall be satisfied from an examination of the books and papers of his office, that none of the parties mentioned in this bill, have previously received the land herein granted to them.

Sec. 3. And that his act take effect and be in force from and after its passage.

Approved, February 16, 1852.

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CHAPTER CXCII.

An Act to Incorporate the Texas Western Railroad Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That Henry L. Kinney, James Power, James W. Byrne, Ebenezer Allen, M. P. Norton, Hugh McLeod, Forbes Britton,

Hamilton P. Bee, Thomas Dyer, William L. Cazneau, William G. Hale, Robert Hughes, Rufus Doane, James McGuffin, Hugh Stephenson, William Mann, Nathan Mitchell, B. M. Browder, Simeon Hart and T. F. White, their associates and successors, be, and are hereby created and established a body corporate and politic, under the name and title of the Texas Western Railroad Company, with the capacity in said corporate name, to make contracts, to have succession and a common seal; to make by-laws for its government, and the regulation of its affairs; to sue and be sued; to plead and be impleaded; to grant and receive and generally to do and perform all such acts and things as may be necessary or proper for, or incident to the fulfilment of its obligations, or the maintenance of its rights under this act, and consistent with the constitution of the State.

Sec. 2. That said company be, and is hereby invested with the right to locate, construct, own, and maintain a railway, commencing at a suitable point on the Aransas or Corpus Christi Bay, and thence running by such course, and to such points on the Rio Grande, and up and down said river, as said company shall deem and determine to be most suitable, with the right of making, owning, and maintaining such branches of said railway, as they may deem expedient.

Sec. 3. That the parties named in this act are hereby appointed commissioners, and invested with the right of forming and organizing said company, and generally of exercising the powers of directors, until directors are chosen or appointed by such persons as may subscribe to the stock of said company, when the powers of said commissioners shall cease.

Sec. 4. That the capital stock of said company, to consist of all its property, real and personal, franchises, and rights to property, shall be divided into shares of one hundred dollars each; each share entitling the owner thereof to one vote by himself or proxy at all meetings of said company; that said shares shall be deemed personal estate, and shall be transferable by any conveyance in writing, recorded by the treasurer, in books kept by him at his office, or in such other manner as the by-laws of said company shall provide.

Sec. 5. That immediate government and direction of the affairs of said company shall be vested in a board of not less than six directors, who shall elect one of their own number as President of said company; no person shall be eligible to the office of director, unless an owner or subscriber of at least five shares of the stock of said company; the directors



shall have the power to fill any vacancy that may occur in said board from non-election, death or otherwise, and may appoint a Secretary, Treasurer, and such other officers and agents as they may consider necessary, and prescribe and require bonds for the faithful performance of their duties; they may, if not otherwise provided by the by-laws, determine the manner of conducting all meetings, the number of members that shall constitute a quorum, and to do, or cause to be done, all other lawful matters and things which they may deem necessary and proper in conducting the matters of the company; they shall keep or cause to be kept, accurate records of all meetings of the directors and company, and accurate books of accounts of the receipts and expenditures of the company, and all other books necessary and proper to be kept by such company, which shall be open to the inspection of the stockholders; a majority of the board of directors shall have the authority of a full board; and all conveyances and contracts in writing, executed by the President, and countersigned by the Secretary, or any other officer or person authorized by the directors, under the seal of the company, and in pursuance of a vote of said directors, shall be valid and binding.

Sec. 6. That the shares may be disposed of and books open for subscription thereto, in such manner and on such terms as said commissioners shall determine will be best for the interest of said company, and any agreement in writing by which any person shall become a subscriber to the capital stock of said company, may be enforced against him according to its terms; and if any subscriber shall fail to pay any amount due upon shares subscribed by him according to the terms of his subscription, the directors may sell, at auction and transfer to the purchaser the shares of such delinquent, and if the proceeds of sale shall not be sufficient to pay the amount due on said subscription with interest and charges, such delinquent shall be held liable to the company for the deficiency, and if the proceeds shall exceed the amount so due with interest and charges, said delinquent shall be entitled to the surplus.

Sec. 7. That it shall be lawful for the company to enter upon and purchase, or otherwise take and hold, any land necessary for the purpose of establishing and constructing said Railway, with all necessary depots and other buildings; and if they shall not be able to obtain said lands by agreement with the owner thereof, they shall pay therefor such compensation as shall be determined in the manner provided by the following section: provided, that the land so taken for the road bed, shall not exceed two hun-

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dred feet in width, and for depots and other buildings only such further width as shall be needed for such purposes.

Sec. 8. That any person, when land has been taken as aforesaid without agreement or satisfactory compensation, may apply to the District Court of the county in which said land is situated for the appointment of, and said court shall thereupon appoint three disinterested freeholders of the county, who shall appoint a time and place to hear the applicant and the company, to whom shall be given by said freeholders reasonable notice of said time and place; and said freeholders shall, after being sworn, and after due hearing of the parties, determine the amount of compensation, if any, to which the applicant may be entitled and make return of their award to the next succeeding term of said court, and said award, if not rejected by said court for sufficient cause then shown, shall be entered up as the judgment of said court; in determining the question of compensation, said freeholders shall be governed by the actual value of the land at the time it was taken, taking into consideration the benefit or injury done to the other lands and property of the owner by the establishment of said Railway, and if the amount of compensation awarded by said freeholders shall not exceed the amount offered by said company to the owner prior to said application to the court, the applicant shall pay the costs of the proceedings, otherwise the company shall pay the same.

Sec. 9. That it shall be the duty of said company, whenever any State or county road now by law established shall be crossed by the track of said railway, to make and keep in repair good and sufficient causeways at such crossings, and in all cases where any person shall own lands on both sides of said railway, and there shall be no other convenient access from one part to the other, such owner shall have the right of passage free of costs at all reasonable times across the track of said railway.

Sec. 10. This company is hereby required at all reasonable times and for a reasonable compensation to draw over their road the passengers, merchandise and cars of any other railroad corporation which has been or may hereafter be authorized by the legislature, to enter with their railroad and connect with the railroad of this company, and if the respective companies shall be unable to agree upon the compensation aforesaid, it shall be the duty of the President of each company to select, each, one man as a commissioner, and the two commissioners so selected shall choose a third in case of disagreement, neither of whom shall be a stockholder in either road or interested therein, and they shall fix the rates which shall not be changed for one year

from the time of going into effect; the said commissioners shall also fix the stated periods at which said cars are to be drawn as aforesaid, having reference to the convenience and interests of said corporations, and the public who will be accommodated thereby; the right or power is specially conferred on the said company to connect and contract with any railroad company chartered by this State for the performance of like transport, and in case of disagreement between said companies, the same shall be referred and settled as aforesaid, and be binding for one year as aforesaid.

Sec. 11. That said company may acquire real estate by gift or purchase, and that such commissioners hereinbefore mentioned shall have full authority to solicit and receive subscriptions and conveyances of land to said company, until the time fixed for the first meeting of said commissioners, which authority may be then extended by said meeting; which said land so obtained shall be alienated by said company in the following manner: one-fourth in six years, the one-fourth in eight years, the one-fourth in ten years, and the other fourth in twelve years from the time the same was acquired.

Sec. 12. That if the track of this railway shall cross any navigable stream, it shall do it in such way as not to obstruct its navigation.

Sec. 13. That said company shall have the right to demand and receive such rates and prices for the transportation of passengers and freight as they may think proper to establish, not to exceed five cents per mile for passengers, and fifty cents per hundred pounds for freight for every hundred miles the same may be carried.

Sec. 14. That if any person shall wilfully injure or obstruct said railway or its property, such person may be punished when prosecuted by indictment for said offence in due course of law, and also liable to action by said company or any person whatever, who may suffer in person or property from said wilful obstruction, for the amount of damages occasioned thereby.

Sec. 15. There shall be granted to said company eight sections of land of six hundred and forty acres each, for every mile of railway actually completed by them and ready for use; and upon the application of the President of the company, or any duly authorized agent thereof, stating that any section of five miles or more of said railway has been completed and is ready for use, it shall be the duty of the Comptroller of public accounts to require the State Engineer, or a Commissioner to be appointed by the Governor, to examine said railway, and upon his cer-

tificate that said section of said railway has been completed in a good and substantial manner, and is ready for use, the Comptroller shall give information of that fact to the Commissioner of the General Land Office, whose duty it shall be to issue to said company, land certificates to the amount of eight sections of land, of six hundred and forty acres each, for each and every mile of railway thus completed and ready for use; such certificates shall be for six hundred and forty acres each, and shall be located upon any unappropriated public domain of the State of Texas, within twelve months from the issuing thereof, which date shall appear upon the face of each certificate; and upon the return of the field-notes of any survey made by virtue of any certificate thus issued, it shall be the duty of the Commissioner of the General Land Office to issue patents to said company in their corporate name; one-fourth of which said lands thus patented shall be alienated by the company in six years, one-fourth in eight years, one-fourth in ten years, and the other fourth in twelve years, so that the whole of the lands thus granted shall pass from the hands of the company within twelve years from the date of the patents thus issued.

Sec. 16. Said company shall be required to have a good and sufficient brake upon the hindmost car in all trains transporting passengers or merchandise, and also permanently stationed there a trusty and skillful brakeman, under a penalty not exceeding the sum of one hundred dollars for each offence, to be recovered in any court of competent jurisdiction for the benefit of the State; said company shall cause to be placed on each locomotive engine passing over their road, a bell of the weight of at least thirty-five pounds, or a steam whistle, and the said bell shall be rung or the whistle blown at the distance of at least eighty rods from the place of crossing any highway or turnpike, and kept ringing or blowing until the engine has passed or stopped; said company shall be required to construct their railroad with good T or U iron rails; provided, that no land shall be donated unless the company shall actually commence their road within two years, and actually complete and finish at least ten miles within three years.

Sec. 17. The first meeting of the commissioners or directors appointed by this act, shall be held at Corpus Christi, on the first Monday in May next, in which, and all subsequent meetings, said directors may act in person or by proxy.

Sec. 18. That nothing in this act shall be so construed as to confer banking privileges or powers of any kind whatever.

Sec. 19. That if said railway shall not be commenced within

five years from the passage of this act, and at least twenty miles thereof are not completed within six years, then this charter shall be null and void; and it is hereby provided and declared, that it shall be lawful for any other railway hereafter to be constructed to cross the said railway or any branch thereof, or to connect at any point therewith.

Sec. 20. That the said company shall have the right to take and hold so much of the public lands, not exceeding two hundred feet wide as the said railway or any of its branches may pass through for the tract thereof, and such additional width as may be absolutely necessary for any depot or other work for the purposes of the railway, that the company may deem proper to establish, and in all cases where such railway or branch shall pass through any public lands, all such lands to the depth of three miles from the extension line of the track on each side thereof, shall be, and hereby are reserved for the State from and after the time such track shall be fixed or designated by survey, recognizance or otherwise; and the said lands, as passed as the road is constructed, shall be divided into sections fronting one mile each on the road, which sections shall be numbered and the corners of each section on the road plainly marked; and of these reserved lands the company shall have the right by virtue of any of their certificates issued in accordance with the provisions of this act, to cause to be located, surveyed and patented for their use, each alternate section, such sections in each instance embracing a tract of land fronting one mile on said road and extending back three miles, preserving an equal width, and the remaining sections shall continue the property of the State until disposed of by the legislature.

Approved, February 16, 1852.

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## CHAPTER CXCIIL

### An Act to Incorporate the Corpus Christi Navigation Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That James K. McCreary, Ebenezer Allen, Henry L. Kinney, Forbes Britton, Frederick Belden, William Mann, William H. Jones and Walter Merriman, and their associates and successors, be, and they are hereby created and established a body politic and corporate, under the name of the "Corpus Christi Navigation Company," with capacity in said corporate

name to make contracts, to have succession and a common seal, to make by-laws for its government and the regulation of its affairs, to sue and be sued, to grant and receive, to plead and be impleaded, and generally to do and perform all such acts and things as may be necessary or proper for, or incident to the fulfilment of its obligations, or the maintenance of its rights under this act, and consistent with the constitution of this State; provided, that this corporation shall not continue longer than twenty years.

Sec. 2. That the said company be, and hereby is invested with the right of making, owning, continuing and maintaining any such channels, excavations, or works as may be necessary or proper for opening and perfecting, continuing and maintaining a permanent and convenient navigation for steamboats and other vessels, from the town of Saluria, on Matagorda Bay, through the Bays of Espiritu Santo, San Antonio, Aransaso and Corpus Christi, to the town of Corpus Christi, on the last named bay.

Sec. 3. That the persons named in this act, or a majority of them, with such persons as they may associate with them for the purpose, are hereby appointed commissioners, and invested with the right of forming and organizing the said company and of exercising the powers of directors until a board of directors shall be by them appointed or elected in pursuance of the provisions hereof, upon the organization of which board, the office and powers of the commissioners shall cease; it shall be the duty of the commissioners to appoint said board of directors as soon as the company shall be organised, unless the members of the company at the time of their organization shall elect such board, which they may do if they see fit.

Sec. 4. That the capital stock shall consist of the entire property and right to property of the company, whether arising from subscriptions, the sale of stock certificates, or from any other source; the amount or value of said capital to be determined by the directors and by them divided into shares of such equal value as they may think fit; each share entitling the owner thereof to one vote in person or by proxy, at the meeting of the company; and the shares shall be deemed personal estate, and shall be transferable by endorsement on the certificates; each shareholder shall be entitled to one certificate for every share he owns.

Sec. 5. That the monies heretofore expended within the last year in opening said channels shall, when shown to the directors and proven to their satisfaction, be considered as so much

money expended for the benefit of the company, and the directors shall cause certificates of stock to be issued for the amount and delivered to the person or persons who have expended said monies.

Sec. 6. That the board of directors shall consist of not less than five, and they shall exercise the immediate government and direction of the affairs of the company, and all its powers, not otherwise hereby vested; said directors shall elect one of their number as President of the company; no person shall be eligible as a director unless a subscriber or owner of at least five shares of the capital stock; the directors shall hold their offices until others are elected in their places by the members of the company; they shall have power to fill any vacancies occurring in their board; to appoint a Secretary, Treasurer and such other officers and agents as they may consider necessary, and to prescribe and require bonds for the faithful performance of their duties; they may, if the same is not fixed by the by-laws, determine the manner of calling and conducting all meetings of the company and of their own board, and the number that shall constitute a quorum, and do or cause to be done all lawful matters and things which they may deem necessary or proper in conducting the business of the company; a majority of the board of directors shall have the powers of a full board, and all conveyances and contracts in writing executed by the President and countersigned by the Secretary, or any other officer authorised by the directors under the seal of the company, and in pursuance of a vote of the directors, shall be valid and binding.

Sec. 7. That the shares of said capital stock may be disposed of by the directors, in such manner and on such terms as they shall think best for the interest of the company; and any contract in writing whereby any person shall become a subscriber to the capital stock, may be enforced against him according to its terms; and if any subscriber shall fail to pay any amount due upon shares subscribed for by him according to the terms of his subscription, the directors may sell at auction and transfer to the purchaser the shares of such delinquent, and if the proceeds of the sale shall not be sufficient to pay the amount so due with interest and charges, such delinquent shall be held liable to the company for the deficiency, and if the proceeds shall exceed the amount so due with interest and charges, he shall be entitled to the surplus.

Sec. 8. That if any person shall wilfully injure or obstruct the said channels or any of them, or the embankments or fix-

tures or other property of the company, they shall be punished by fine and imprisonment at the discretion of the court, and shall also be liable to action by the company for damages.

Sec. 9. That the said company shall have the right to charge and receive tolls on all vessels and water craft passing through said channels or excavations, at the following rates, that is to say: on all steamboats, other vessels or water craft, drawing more than three feet of water, running between said towns of Saluria or any point on either of the bays of Espiritu Santo, Matagorda or San Antonio, one dollar for each foot of water over three feet; on all such steamboats, vessels or water craft running between said town of Saluria or any point on Matagorda Bay, to or from Corpus Christi, or any point on Corpus Christi Bay, three dollars for each foot of water over three feet; on all such steamboats, vessels or water craft running between the town of Aransaso or St. Josephs, at the entrance of Aransaso bay, or any other point on said bay to or from Corpus Christi or any point on Corpus Christi bay, one dollar for each foot of water over four feet; on all such steamboats, vessels or water craft running between any point on Aransaso bay and any point on either of the bays of San Antonio or Espiritu Santo, one dollar for each foot of water over three feet; but it shall not be lawful for said company to charge tolls on any steamboat, vessel or other water craft running through said channels or excavations, unless the same shall draw more than three feet of water, and then only for the excess over three feet; provided, however, that nothing in this act contained, shall authorise the said company to levy and collect tolls upon any crafts or vessels running from Matagorda bay to the Gaudalupe river, or from the Gaudalupe river to Matagorda Bay.

Sec. 10. That the said company shall commence its operations in clearing out and opening said channels and excavations, within twelve months from the first day of June next, and unless it shall have completed the said channels and excavations between Saluria and Corpus Christi, so as to admit of the transit of vessels drawing more three feet of water, within two years thereafter, then this act shall be void.

Sec. 11. That this act shall take effect and be in force from and after its passage.

Approved, February 16, 1852.



CHAPTER CXCIV.

An Act to establish and incorporate the Gonzales College.

Section 1. Be it enacted by the Legislature of the State of Texas, That an institution of learning be, and the same is hereby established at Gonzales, in the county of Gonzales, to be denominated the "Gonzales College."

Sec. 2. That the following stockholders of the Gonzales School Association, viz: John Mooney, Thomas W. Hunt, William J. Moore, M. G. Dicks, F. Chenault, S. B. Conley, J. Ginchard, H. Eggleston, Benjamin B. Rick, W. V. Collins, Thomas J. Pilgrim, John Goss, Edmond Bellenger, Caleb S. Brown, Thomas S. Walker, H. B. Glover, Wm. H. Stewart, H. C. Conner, Stephen H. Darden, W. H. Phillips, Elihu Stephens, Sam. Barrow, James Hodges, John T. Tinsley, J. B. Patrick, John Cooksey, Charles Braches, B. Weekes, John S. Hodges, Andrew J. Hodges, John Burlison, P. H. Coe, A. Jones, A. H. Jones, C. C. Dewitt, C. D. Bennett, D. S. H. Dout, Wm. A. Matthews, D. Willis, A. S. Miller, Russell Jones, J. Batemore, Eli Mitchell, J. Thredgill, John C. McKean, J. F. Barton, Edward Mallock, Joseph Barnett, James Ramsey, James Nations, James J. Taylor, W. E. Simpson, and their successors and associates be, and they are hereby constituted a body politic and corporate in deed and in law, by the name and style of "Gonzales College."

Sec. 3. That the following stockholders be, and the same are hereby declared to be the trustees of said college, viz: S. B. Conley, A. H. Jones, C. S. Brown, W. V. Collins, W. H. Stewart, Thomas J. Pilgrim, J. B. Patrick, E. Bellenger, B. Weekes, James Hodges, Charles Braches, H. Eggleston and James Ramsey, five of whom shall constitute a quorum for the transaction of business, and shall in all cases perform their services gratuitously.

Sec. 4. That the board of trustees of said college shall consist of thirteen members, to be elected annually on the first Tuesday in January, from the stockholders of said college, until the said time of election shall be changed by a vote of the body corporate of said college, and the said trustees shall in all cases hold their offices until their successors are elected; and there shall be elected from the said trustees a President of said board, and from the stockholders a Secretary and Treasurer.

Sec. 5. That the stockholders of the Gonzales School Association be, and they are hereby constituted a body politic and corporate in deed and in law, by the name and style of "Gon-

zales College," and by that name they and their successors may and shall have succession, and be able and capable in law to have, receive and enjoy to them and their successors, lands, tenements and hereditaments, of any kind in fee or for life, or for years, and personal property of any kind whatsoever; and also, all sums of money which may be given, granted or bequeathed to them for the purpose of promoting the interests of the said college.

Sec. 6. That there shall be a stated meeting of said board of trustees in each year at the time of conferring degrees, and that the President of said board of trustees shall have full power to call an occasional meeting of the board whenever it shall appear to him necessary, and in his absence the senior member of said board shall discharge the duties devolving upon the President.

Sec. 7. That the body corporate of said college shall and **may** have a common seal for the business of themselves and their successors, and that by their aforesaid name they and their aforesaid successors shall and may be able to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in all courts of law and equity in this State, and grant, bargain and sell or assign any lands, tenements, goods or chattels, now belonging to said college or that may hereafter belong to the same; to construct all necessary buildings for said institution, to establish a preparatory department, and also, a female department, to have the management of the finances and the privilege of electing their own officers, of appointing all necessary committees, and to act and do all things whatsoever for the benefit of said institution, in as ample a manner as any person or body politic or corporation, can and may do by law.

Sec. 8. That the trustees and faculty shall have the power to prescribe the course of studies to be pursued by the students, and of forming and enacting all such ordinances and by-laws as shall appear to them necessary, for the good government of said college and their own proceedings.

Sec. 9. That the trustees and faculty of said college shall have full power to grant and confer any degree or degrees in the arts and sciences to any of the students of the said college or any person or persons by them deemed worthy, as are usually granted and conferred in other colleges, and to give diplomas or memorials thereof signed by the faculty of said college, and by the President and Secretary of said board of trustees, and sealed by the common seal of the said college to authenticate and perpetuate the memory of such graduations.

Sec. 10. That the Principal of said college shall be styled the President, and the instructors the Professors, and the President and Professors shall be styled the Faculty of said college; which faculty shall have power to enforce the ordinances and by-laws enacted by said faculty and the said board of trustees for the government of the students, by rewarding or censuring such of them as, after repeated admonition, shall continue disobedient or refractory, until a determination of a quorum of the said board of trustees and faculty can be had, but it shall only be in the power of a quorum of said trustees and faculty to expel any student or students of said college.

Sec. 11. That whenever any vacancy shall occur in the board of trustees, either by death or resignation, or otherwise, such vacancy shall be filled by a majority of the remaining trustees.

Sec. 12. That all necessary officers of said institution shall be appointed by a quorum of said board of trustees.

Sec. 13. That the trustees of said college shall have the power to fix the salaries of the officers connected with the college, and of removing any of them for neglect or misconduct in office, a majority of the whole board of trustees concurring in such removal.

Sec. 14. That the institution hereby established and incorporated shall be purely literary and scientific, and the students of all religious denominations whatsoever shall enjoy equal advantages.

Sec. 15. That the lands, public buildings and other property belonging to said college, are hereby declared to be free from any kind of State, county, or corporation tax.

Sec. 16. That the names of all the donors to said college, with the amount of their donations annexed, shall be carefully and legibly inscribed in a book kept for that purpose, which shall be preserved among the archives of said college, in order that posterity may know who were the benefactors of said college.

Sec. 17. That the trustees of said college shall have power to appoint honorary members to their number, and the said members so appointed, may take their seats at any meeting of the board, and advise and confer with the members thereof, but in no case shall be entitled to vote.

Sec. 18. That four leagues of land be, and the same are hereby granted to the body corporate of said college, and their successor, to be located on any vacant and unimproved lands in this State, in tracts of not less than one-fourth league, and that the Commissioner of the General Land Office is hereby author-

ized to issue certificates in tracts of not less than one-fourth league in the name of Gonzales College, and their successors, without charging any fees for the same; and the trustees of said college are empowered to employ any legally authorised surveyor to locate and survey the same and make his return of field-notes, which shall be received and examined by the county surveyor in the manner prescribed by law, without charging any fees for the same, and the Commissioner of the General Land Office is hereby required to issue patents for the same to the aforesaid body corporate.

Sec. 19. That the said four leagues of land are hereby given, granted and confirmed to the said body corporate of said college and their succession, who shall have full power to sell, alienate, lease, rent, or otherwise dispose of the same, and the proceeds thereof shall be for the erection of suitable buildings, for the purchase of philosophical, astronomical and chemical apparatus, and for the promotion of literature, science, and the arts in general, and for no other purposes whatsoever.

Sec. 20. That this act shall be deemed a public act and shall be taken notice of judicially, without special pleading.

Sec. 21. That the certificates for the four leagues of land heretofore issued by the Commissioner of the General Land Office to the trustees of Guadalupe College, situated in the town of and county of Gonzales, be, and the same are hereby transferred to the body corporate of Gonzales College, as their four leagues of land herein granted, and the Commissioner of the General Land Office is hereby authorised and required to issue the patents upon said certificates to the body corporate of Gonzales College.

Sec. 22. That an act incorporating the "Guadalupe College," approved January 30th, 1841, be and the same is hereby repealed, with the proviso that the certificates for the four leagues of land be excepted and transferred as hereinbefore directed.

Sec. 23. That this act take effect from and after its passage.

Approved, February 16. 1852.

CHAPTER CXCIV.

An Act to Incorporate the Vicksburg and El Paso Railroad Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That Rufus Doane, Lucius C. Clopton, James C. Hill, Wm. T. Scott, Willis Stewart, Sam. Bogart, E. E. Lott, L. B. Camp, Jas. W. Throckmorton, J. D. Todd, their associates and successors, be, and are hereby created and established a body corporate and politic, under the name and title of the Texas Western Railroad Company, with the capacity in said corporate name, to make contracts, to have succession and a common seal; to make by-laws for its government, and the regulation of its affairs; to sue and be sued; to plead and be impleaded; to grant and receive and generally to do and perform all such acts and things as may be necessary or proper for or incident to the fulfilment of its obligations, or the maintenance of its rights under this act, and consistent with the constitution of the State.

Sec. 2. Said company is hereby invested with the right to locate, construct, own, and maintain a railing company, at a suitable point on the eastern boundary line, and thence running by such course as said company shall decree and determine to be most suitable, to El Paso on the Rio Grande river, with the right of making, owning, and maintaining such branches of said railway, as they may deem expedient.

Sec. 3. The parties named in this act are hereby appointed commissioners, and invested with the right of forming and organizing said compnay, and generally of exercising the powers of directors, until directors are chosen or appointed by such persons as may subscribe to the stock of said company, when the powers of said commissioners shall cease.

Sec. 4. The capital stock of said company to consist of all its property, real and personal, franchises and rights to property, shall be divided into shares of one hundred dollars each, each share entitling the owner thereof to one vote by himself or proxy at all meetings of said company; said shares shall be deemed personal estate, and shall be transferrable by any conveyance in writing, recorded by the Treasurer in books kept by him at his office, or in such manner as the by-laws of said company shall provide.

Sec. 5. The immediate government and direction of the affairs of said company shall be vested in a board of not less than

six directors, who shall elect one of their own number as President of said company; no person shall be eligible to the office of director unless an owner or subscriber of at least five shares of the stock of said company; the directors shall have power to fill any vacancy that may occur in said board from non-election, death or otherwise, and may appoint a Secretary, Treasurer and such other officers and agents, as they may consider necessary, and prescribe and require bonds for the faithful performance of their duties; they may, if not otherwise provided for by the by-laws, determine the manner of conducting all meetings, the number of members that shall constitute a quorum to do business, and to do or cause to be done all other lawful matters and things which they may deem necessary and proper in conducting the affairs of the company; they shall keep or cause to be kept accurate records of all meetings of the directors of the company, and accurate books of accounts of the receipts and expenditures of the company, and all other books necessary and proper to be kept by such company, which shall be open to the inspection of the stockholders; a majority of the board of directors shall have the authority of a full board, and all conveyances and contracts, in writing, executed by the President and countersigned by the Secretary, or any other officer or person authorized by the directors under the seal of the company and in pursuance of a vote of said directors, shall be valid and binding.

Sec. 6. The shares may be disposed of, and books opened for subscriptions thereto, in such manner and on such terms as said commissioners shall determine will be for the best interests of said company; and any agreement in writing by which any person shall become a subscriber to the capital stock of said company, may be enforced against him according to its terms; and if any subscriber shall fail to pay any amount due upon shares subscribed by him, according to the terms of his subscription, the directors may sell at auction, and transfer to the purchaser the shares of such delinquent; and if the proceeds of sale shall not be sufficient to pay the amount due on said subscription, with interest and charges, such delinquent shall be held liable to the company for the deficiency, and if the proceeds shall exceed the amount so due, with interest and charges, said delinquent shall be entitled to the surplus.

Sec. 7. It shall be lawful for the company to enter upon and purchase, or otherwise take and hold any land necessary for the purpose of establishing and constructing said railway, with all necessary depots and other buildings; and if they shall not be able to obtain said lands by agreement with the owner thereof,

they shall pay therefor such compensation as shall be determined in the manner provided by the following section; provided, that the lands so taken for the road bed, shall not exceed two hundred feet in width; and for depots and other buildings only such further width as shall be needed for such purposes.

Sec. 8. Any person, when land has been taken as aforesaid without agreement or satisfactory compensation, may apply to the District Court of the county in which said land is situated, for the appointment of, and said Court shall thereupon appoint three disinterested freeholders of the county, who shall appoint a time and place to hear the applicant and the company; to whom shall be given by said freeholders reasonable notice of said time and place, and said freeholders shall, after being sworn and after due hearing of the parties, determine the amount of compensation, if any, to which the applicant may be entitled, and make return of their award to the next succeeding term of said Court; and said award, if not rejected by said Court for sufficient cause then shown, shall be entered up as the judgment of said Court. In determining the question of compensation, said freeholders shall be governed by the actual value of the land at the time it was taken, taking into consideration the benefit or injury done to other lands and property of the owner, by the establishment of said railway, and if the amount of compensation awarded by said freeholders shall not exceed the amount offered by said company to the owner, prior to said application to the Court, the applicant shall pay the costs of the proceedings, otherwise the company shall pay the same.

Sec. 9. It shall be the duty of said company, whenever any State or county road, now by law established, shall be crossed by the track of said railway, to make and keep in repair good and sufficient causeways at such crossings, and in all cases where any person shall own lands on both sides of said railway, and there shall be no other convenient access from one part to the other, such owner shall have the right of passage, free of costs, at all reasonable times across the track of said railway.

Sec. 10. This company is hereby required at all reasonable times, and for a reasonable compensation, to draw over the road the passengers, merchandize and cars of any other railroad corporation which has been or may hereafter be authorized by the Legislature to enter with their railroad and connect with the railroad of this company; and if the respective companies shall be unable to agree upon the compensation aforesaid, it shall be the duty of the President of each company to select

each one man as a commissioner, and the two commissioners so selected shall choose a third, in case of disagreement, neither of whom shall be a stockholder in either road, or interested therein, and they shall fix the rates, which shall not be changed for one year from the time of going into effect. The said commissioners shall also fix the stated periods at which said cars shall be drawn as aforesaid, having reference to the convenience and interests of said corporations, and public who shall be accommodated thereby. The right and power is specially conferred on said company to connect and contract with any railroad company chartered by this State, for the performance of like transport, and in case of disagreement between said companies, the same shall be referred and settled as aforesaid, and be binding for one year as aforesaid.

Sec. 11. Said company may acquire real estate by gift or purchase, and that such commissioners hereinbefore mentioned, shall have full authority to solicit and receive subscriptions and conveyances of land to said company until the time fixed for the first meeting of said commissioners, which authority may then be extended by said meeting, which land so obtained, shall be alienated by said company in the following manner: one-fourth in six years, the one-fourth in eight years, the one-fourth in ten years, and the one-fourth in twelve years from the time the same was acquired.

Sec. 12. If the track of this railway shall cross any navigable stream, it shall do it in such a way as not to obstruct its navigation.

Sec. 13. Said company shall have the right to demand and receive such rates and prices for the transportation of passengers and freight as they may think proper to establish, not to exceed five cents per mile for passengers, and fifty cents per hundred pounds for freight for every hundred miles the same may be carried.

Sec. 14. If any person shall wilfully injure or obstruct said railway or its property, such person may be punished, when prosecuted by indictment, for said offence in due course of law, and also liable to action by said company or any person whatever, who may suffer in person or property from said wilful obstruction, for the amount of damages occasioned thereby.

Sec. 15. There shall be granted to said company eight sections of land of six hundred and forty acres each, for every mile of railway actually completed by them and ready for use, and upon the application of the President of the company, or any duly authorized agent thereof, stating that any section of five



miles or more of said railway has been completed and is ready for use, it shall be the duty of the Comptroller of public accounts to require the State engineer, or a commissioner to be appointed by the Governor, to examine said railway, and upon his certificate that said section of said railway has been completed in a good and substantial manner, and is ready for use, the Comptroller shall give information of that fact to the Commissioner of the General Land Office, whose duty it shall be to issue to said company land certificates to the amount of eight sections of land, of six hundred and forty acres each, for each and every mile of railway thus completed and ready for use; such certificates shall be for six hundred and forty acres each, and shall be located upon any unappropriated public domain of the State of Texas, within twelve months from the issuing thereof, which date shall appear upon the face of each certificate; and upon the return of the field-notes of any survey made by virtue of any certificate thus issued, it shall be the duty of the Commissioner of the General Land Office to issue patents to said company in their corporate name; one-fourth of which said lands thus patented shall be alienated by the company in six years, one-fourth in eight years, one-fourth in ten years, and the other fourth in twelve years, so that the whole of the lands thus granted shall pass from the hands of the company within twelve years from the date of the patents thus issued.

Sec. 16. Said company shall be required to have a good and sufficient brake upon the hindmost car in all trains transporting passengers or merchandize, and also permanently stationed there, a trusty and skillful brakeman under a penalty not exceeding the sum of one hundred dollars for each offence, to be recovered in any court of competent jurisdiction for the benefit of the State; and said company shall cause to be placed on each locomotive engine passing over their road, a bell of the weight of at least thirty-five pounds, or a steam whistle, and the said bell shall be rung, or the whistle blown, at a distance of at least eighty rods from the place of crossing any highway or turnpike, and kept ringing or blowing until the engine has passed or stopped: said company shall be required to construct their railroad with good T or U iron rails; provided, that no land shall be donated unless the company shall actually commence their road within four years, and actually complete and finish at least ten miles within five years.

Sec. 17. The first meetings of the Commissioners or directors appointed by this act shall be held at Marshall, in Harrison county, on the first Monday in July next, in which and all

subsequent meetings, which may be held at such times and places as the directors may think best, said directors may act in person or by proxy.

Sec. 18. Nothing in this act shall be so construed as to confer banking privileges or powers of any kind whatever.

Sec. 19. That if said railway shall not be commenced within five years from the passage of this act, and at least twenty miles thereof are not completed within six years, then this charter shall be null and void; and it is hereby provided and declared, that it shall be lawful for any other railway hereafter to be constructed to cross the said railway or any branch thereof, or to connect at any point therewith.

Sec. 20. The said company shall have the right to take and hold so much of the public land, not exceeding two hundred feet wide, as the said railway track or any of its branches may pass through, for the track thereof, and such additional width as may be absolutely necessary for any depot or other work for the purpose of said railroad that the company may deem proper to establish; and in all cases when such railroad or any branch thereof shall pass through any public lands, all such lands to the depth of three miles from the extension line of the track on each side thereof, shall be reserved for the State, from and after the time such track shall be fixed or designated by survey, recognition or otherwise; and the said lands as the road is constructed shall be divided into sections fronting one mile each on the road, plainly marked, and of these reserved lands the company shall have the right by virtue of any of the certificates issued in accordance with the provisions of this act, to cause to be located, surveyed and patented for their use each alternate section, such section in each instance embracing a tract of land fronting one mile, pursuing an equal width, and the remaining sections shall continue the property of the State until disposed of by the Legislature.

Approved, February 16, 1852.

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## CHAPTER CXCVI.

### An Act for the relief of Frederick Foy.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Comptroller of the State of Texas, be, and he is hereby required to issue to Frederick Foy a duplicate of draft,

number five thousand seven hundred and twelve, drawn in the name of E. W. Collins, for two hundred and five dollars and fifty cents, and dated October 26th, 1837; and the duplicate when issued is hereby declared the property of said Foy, and shall be of the same validity that the original draft would be, if now in possession of said Foy, by regular transfer or assignment.

Sec. 2. That the Comptroller and Auditor shall, upon the surrender of said draft, issue to said Foy, a certificate of first class debt for the amount to which the said draft would have entitled him to receive under the act of 20th of March, 1848.

Approved, February 16, 1852.

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CHAPTER CXCVII.

Joint Resolution for the benefit of Thomas William Ward and H. W. Augustine.

Whereas, Thomas William Ward, a Captain of Artillery, lost a leg by a cannon shot at the storming of Bexar, in December, 1835; therefore,

Resolved by the Legislature of the State of Texas, That the sum of three hundred dollars be, and the same is hereby appropriated for the purpose of procuring wooden legs, when necessary, for the said Thomas William Ward, and the like sum for H. W. Augustine, who lost his leg in the Cherokee fight; to supply the legs thus lost in fighting the battles of their country, and as an acknowledgment of their services in obtaining the Independence of Texas; and that this joint resolution take effect from its passage.

Approved, February 16, 1852.

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CHAPTER CXCVIII.

An Act for the relief of Elizabeth Jones.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be authorized and required to issue to Elizabeth Jones, a certificate for one league and labor of land.

Sec. 2. That said certificate when located, surveyed and returned to the Land Office as the law directs, shall be patented as first class certificates.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved, February 16, 1852.

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#### CHAPTER CXCIX.

An Act for the relief of Eldridge Mallard, Alfred Franklin Mallard, James Jefferson Mallard and Henry Benjamin Cole.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office is hereby authorized and required to issue to Eldridge Mallard, Alfred Franklin Mallard, each, a land certificate for six hundred and forty acres, as colonists of Mercer's Colony; and to issue to James Jefferson Mallard and Henry Benjamin Cole, each, a land certificate for three hundred and twenty acres, as colonists of Mercer's Colony.

Sec. 2. And that said land certificates, when issued, may be located as other colony certificates.

Sec. 3. That this act be in force from and after its passage.

Approved, February 16, 1852.

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#### CHAPTER CC.

An Act concerning the headright claims to land of Elias M. Eubanks and Elias N. Eubanks of Nacogdoches county.

Whereas, It appears that there were two several Elias Eubanks resident citizens of the county of Nacogdoches, at the date of the declaration of Independence, entitled to headrights of land, the one Elias M. Eubanks, to one league and labor of land, and the other Elias N. Eubanks, to one-third league of land; and

Whereas, By mistake or other cause, the investigating Board of Land Commissioners, in place of recommending for patent the several genuine and distinct claims of the Eubanks for their several and different portions of land, doubly recom-

mended the league and labor headright of Elias M. Eubanks, and failed to recommend the headright claim of Elias N Eubanks, to one-third league of land; and,  
Whereas, Said Elias N. Eubanks is justly entitled to his headright of one-third league of land,

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue a certificate for one-third of a league of land, first class, to Elias N. Eubanks, of Nacogdoches county, his heirs or assigns, which may be located, surveyed and patented upon the same terms and conditions as other first class headright claims.

Sec. 2. That the two-fold recommendation by the investigating board of Land Commissioners of the headright league and labor claim of Elias M. Eubanks, of Nacogdoches county, was intended to apply, and the same is hereby declared to be and apply alone to the one headright league and labor claim of Elias M. Eubanks of Nacogdoches county, and no more.

Sec. 3. That it shall be the duty of the Commissioner of the General Land Office, and he is hereby required to take in and deface the certificate issued by the board of Land Commissioners of Nacogdoches county, to Elias N. Eubanks, on the 14th day of March, 1838, before issuing the certificate mentioned in the first section of this act.

Sec. 4. This act to take effect from and after its passage.

Approved, February 16, 1852.

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## CHAPTER CCI.

### An Act to Incorporate the Brazos and Colorado Railroad Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That George W. Sinks, James S. Lester, Sherman Reynolds, Thomas C. Moore, George Hancock, A. B. McGill and P. W. Nowlin, and their associates and successors, be, and they are hereby created a body corporate and politic, under the name of the Brazos and Colorado Railroad Company, with power in said corporate name to make contracts, to receive, purchase, hold, grant, or alien any property, real or personal, or mixed; to sue and be sued, plead and be impleaded, and generally to do and perform all such acts as may be necessary for, and in-

cident to the fulfilment of its obligations, and the maintenance of its rights under this act.

Sec. 2. Said company may have a common seal, and shall have the power to enact such by-laws for the proper regulation of the company as may be deemed necessary; provided, they do not conflict with the constitution or laws of the United States nor of this State.

Sec. 3. Said company is hereby invested with the right of locating, constructing, owning and maintaining a railway, commencing at such point on the Brazos river, not higher up than the town of Washington, as said company may deem most suitable, and thence running by such course, and to such point on the Colorado river, as said company may deem most expedient, not higher up the said river than the town of LaGrange, and from thence, by way of the town of Bastrop, to the city of Austin; and should said company hereafter see proper to do so, they shall have the privilege of continuing said railroad to Galveston Bay, or to unite with or tap the Buffalo Bayou, Brazos and Colorado Railroad, under the same regulations and restrictions as hereinafter provided for other roads to tap this road; with the privilege of making, owning and maintaining such branches of the Brazos and Colorado Railroad as they may deem most expedient.

Sec. 4. The parties named in this act, or a majority of them, with such persons as they may associate with themselves for this purpose, are hereby appointed commissioners, and invested with the right of forming and organizing said company, and generally of exercising the powers of directors, until directors are chosen by the stockholders, when the powers of the commissioners shall cease.

Sec. 5. The capital stock of said company shall be divided into shares of one hundred dollars; each share entitling the owner thereof to one vote in person or by proxy at all meetings of the company; which proxy shall be dated within six months of the meetings at which the vote is given; and the shares shall be deemed personal estate, and shall be transferable by any conveyance in writing, recorded either by the treasurer, in books kept by him at his office for that purpose, or by an officer duly authorized by the directors, in books kept by him at such other place as the directors may appoint; such transfers as are recorded in such other place, being within thirty days communicated to the treasurer, and by him entered in his books.

Sec. 6. The immediate government and direction of the

company shall be vested in a board of not less than five directors; said directors shall elect one of their number to be President of the company. The first board of directors shall be chosen by the persons named in this act, and such persons as they may associate with themselves for that purpose; said election shall be held in the town of LaGrange, and at such time as the persons named in this act, or a majority of them, with their associates, shall determine, and all subsequent boards of directors shall be elected by the stockholders at such time and place as they may determine; no person shall be eligible to the office of director, unless a subscriber for, or owner of at least three shares of the capital stock; the directors shall have power to fill any vacancy in their body, arising from non-election, or other cause; they shall have power to appoint a Clerk, Treasurer, and such other officers or agents as they may deem necessary, and prescribe and require bonds for the faithful performance of their duties; they shall cause to be kept correct records of all meetings of the directors and company, and accurate books and accounts of the receipts and expenditures of the company, and all other books and accounts necessary and proper to be kept by such company; a majority of the board of directors shall have the power of a full board; and all conveyances and contracts executed in writing, signed by the President, and countersigned by the Treasurer, or any officer duly authorized by the directors, under the seal of the company, and in pursuance of a vote of the directors, shall be valid and binding; and the books shall be open at all reasonable hours to the inspection of stockholders.

Sec. 7. The directors shall have power to dispose of the shares in said capital stock, in such manner and on such terms as they may deem best for the interest of the company; and any agreement in writing whereby any person shall become a subscriber to the capital stock of said company, may be enforced against him according to its terms; if any subscriber shall fail to pay any amount due upon shares subscribed for by him, according to the terms of his subscription, the directors may, after twenty days public notice, sell, at public auction, the shares subscribed for by said delinquent, and transfer to the purchaser such shares; if the proceeds of the sale shall not be sufficient to pay the amount due, with interest and charges, such delinquent shall be held liable to the company for the deficiency, and if the proceeds shall exceed the amount so due with interest and charges, he shall be entitled to the surplus.

Sec. 8. It shall be lawful for the company to purchase and hold any land that may be necessary for the purpose of locating, constructing and maintaining said railway, with all necessary depots and other buildings, and may, by their engineers or agents, enter upon and take possession of all such lands as may be necessary for the locating, constructing and maintaining said railway, and if they shall not be able to obtain such lands, by agreement with the owner, they shall pay for the same such amount as shall be determined in the manner provided for in the following section; the land so taken for the railroad shall not exceed fifty yards in width, and for depots and buildings, only such further width as may be necessary.

Sec. 9. Any person from whom land has been taken for the purposes set forth in the preceding section, may apply to the District Court of the county wherein said land is situated for the appointment of appraisers, and said court, after proof that the president of the company has been served with a notice describing the land, ten days before the holding of the court, shall therefore appoint three disinterested freeholders, citizens of the county, who shall appoint a time and place to hear the applicant and the company, to whose agent or president a reasonable notice shall be given of said time and place; and said freeholders, after being sworn, shall, after hearing the parties, determine the amount of compensation as aforesaid, and make return of their award to the said court, at its next term, and said award may be confirmed; or for any sufficient reason, rejected by said court in the same manner as awards by arbitrators under a rule of court, and if confirmed by the court, judgment shall be rendered thereon as in other cases; in determining the amount of compensation to be paid, as aforesaid, said freeholders shall be governed by the actual value of the land at the time it was taken, taking into consideration the benefit or injury done to other neighboring land of said owner by the establishment of said Railway, if any case the amount found by the arbitrators, shall not exceed the sum proved to have been offered by the company to the owner prior to his application to the court, the owner shall pay the costs of the proceedings, otherwise the company shall pay the same.

Sec. 10. Said company may acquire by purchase, donations, or in payment of stock, such real estate as the directors shall think desirable for the purpose of aiding in the construction or maintenance of said road, and all real estate acquired by the company may be alienated or mortgaged by a vote of a majority of the directors, for the purpose of constructing or



maintaining said railway; said alienation or mortgage shall be signed in the name of the president and countersigned by the Treasurer.

Sec. 11. Said company shall have power to borrow money on their bonds or notes, at such rates as the directors shall deem expedient; provided, that nothing in this act shall be construed to confer banking privileges of any kind.

Sec. 12. Upon the written request of one-fourth of the stockholders (in amount) the president of the company shall call a meeting of the directors, and upon the written request of one-fourth (in amount) of the stockholders, an election shall be held for directors, and a vote of two-thirds (in amount) of the stockholders shall be sufficient to remove the directors and appoint others in their stead, at any time before the expiration of the period for which said directors were originally elected.

Sec. 13. The Mayor and Aldermen of all incorporate cities or towns through which said railway may pass, inclusive of the cities or towns, if any, at its termini, are hereby authorized to subscribe to the capital stock of said company, with the consent of the directors, for said town or city, to an amount not to exceed one hundred thousand dollars, and may issue bonds bearing interest, or otherwise to pledge the faith of said city or town for the same; and the Chief Justice and County Commissioners of the several counties through which said railway may pass, shall be, and they are hereby authorized to subscribe to the capital stock of said company, with the consent of the directors, for their respective counties, to an amount not to exceed one hundred thousand dollars, and to issue bonds bearing interest, or otherwise to pledge the faith of their respective counties to pay the same; provided, that neither the Chief Justice and County Commissioners of any such county, nor the Mayor and Aldermen of any such city or town, shall make such subscription unless two-thirds of the qualified electors of said county, city, or town, at an election to be held for that purpose, shall vote in favor of such subscription being made; and the Chief Justice of any such county, or the Mayor of any such city or town, may order such an election to be held, and shall give notice of the time and object of such election, by causing notice thereof to be posted up in each precinct, at least thirty days before the holding of such election; said election to be conducted in the manner regulating county, city or town elections, as the case may be; provided, further, that when any such subscription shall be made, and bonds therefor issued by the Mayor and Aldermen, or Chief Justice and County Com-

missioners, it shall be their duty respectively to provide for the payment of the principal thereof, by levying and collecting a tax on the real and personal property in the county, city or town for which said subscription shall be made and bonds issued, which tax shall not be less than ten cents, nor more than fifty cents on each and every one hundred dollars worth of taxable property in said county, city or town, and shall be assessed, collected, and paid into the treasury of said county, city or town by which it is levied, in the same manner the county, city or town tax is assessed and collected; which tax shall be continued from year to year, until the whole amount of the principal and interest due on said bonds shall have been fully paid; and when collected, after deducting therefrom the expenses of assessing and collecting, shall be first applied to the payment of the interest due on such bonds, and the remainder shall be applied to the payment of the principal on such bonds.

Sec. 14. All dividends on the capital stock of said railway company that may accrue to said counties, cities or towns shall be appropriated to the payment of the interest and principal of any bonds that may be owing by them respectively, and that may have been executed under the provisions of this act, until the whole of said principal and interest shall have been discharged; and the said railroad company is hereby authorized to pay the same accordingly.

Sec. 15. There shall be granted to said company eight sections of land of six hundred and forty acres each, for every mile of railway actually completed by them and ready for use; and upon the application of the President of the company, or any duly authorized agent thereof, stating that any section of five miles or more of said railway has been completed and is ready for use, it shall be the duty of the Comptroller of public accounts to require the State Engineer, or a Commissioner to be appointed by the Governor, to examine said railway, and upon his certificate that said section of said railway has been completed in a good, substantial manner, and is ready for use, the Comptroller shall give information of that fact to the Commissioner of the General Land Office, whose duty it shall be to issue to said company land certificates to the amount of eight sections of land, of six hundred and forty acres each, for each and every mile of railway thus completed and ready for use; such certificates shall be for six hundred and forty acres each, and shall be located upon any unappropriated public domain of the State of Texas, within twelve months from the issuing thereof, which

date shall appear upon the face of the certificate; and upon the return of the field-notes of any survey made by virtue of any certificate thus issued, it shall be the duty of the Commissioner of the General Land Office to issue patents to said company in their corporate name; one-fourth of which said lands thus patented shall be alienated by the company in six years, one-fourth in eight years, one-fourth in ten years, and the other fourth in twelve years, so that the whole of the lands thus granted shall pass from the hands of the company within twelve years from the date of the patents thus issued; and all lands acquired by said company in any other manner than that pointed out in the preceding part of this section, shall be alienated within the periods above prescribed from the time the same may have been so acquired, except so much as may be necessary for the support and maintenance of said railway.

Sec. 16. Should said company fail to alienate the lands required to be alienated by the fifteenth section of this act, within the periods therein prescribed, it shall be the duty of the Comptroller of Public Accounts to advertise such lands for sale, for at least thirty days previous to the day of sale, in some newspaper published at the seat of government, and also in the county where the land lies, if there be one, if not, then by causing written or printed advertisements to be posted up in said county for a like period; and after having given such notice, to sell such lands at public auction, at the seat of government, for cash, in such quantities as the same may have been surveyed in, and, after deducting the expenses of sale, to pay over the proceeds of such sale to the authorized agents of said company.

Sec. 17. Said company shall be required to have a good and sufficient brake upon the hindmost car in all trains transporting passengers or merchandise, and also permanently stationed there a trusty and skillful brakeman, under a penalty of not exceeding one hundred dollars for each offence, to be recovered in any court of competent jurisdiction for the benefit of the State; and said company shall cause to be placed in each locomotive engine passing over their road, a bell of the weight of at least thirty-five pounds, or a steam whistle, and the said bell shall be rung or the whistle blown at the distance of at least eighty rods from the place of crossing any turnpike or highway, and kept ringing or blowing until the engine has passed or stopped; and said company shall also be required to construct their railroad with good T or U iron rails.

Sec. 18. This company is hereby required at reasonable

times and for a reasonable compensation to draw over their road the passengers, merchandise and cars of any other railroad corporation which may be authorized by the legislature, to enter with their railroad and connect with the railroad of this company, and if the respective companies shall be unable to agree upon the compensation aforesaid to be paid, it shall be the duty of the President of each company to select, each, one man as a commissioner; and should the President of either company fail or refuse to appoint, then the Governor shall appoint one, and the two commissioners so selected shall appoint a third as umpire, neither of whom shall be a stockholder in either road or interested therein, and they shall fix the rates, which shall not be changed for one year from the time of its going into effect; the said commissioners shall also fix the stated periods at which said cars are to be drawn as aforesaid, having reference to the convenience and interests of said corporations, and the public who will be accommodated thereby.

Sec. 19. It shall be the duty of said company, whenever any State or county road now established shall be crossed by said railway, to make and keep in repair good and sufficient causeways at such crossings, and in all cases where any person shall own land on both sides of the railway and there shall be no other convenient access from one point to the other, such owner shall have the right of passage free of costs at all reasonable times crossing said railways; and if said railway shall cross any navigable stream, it shall not be permitted to interfere with the navigation of said stream at ordinary high water.

Sec. 20. If one mile of said railway is not completed within one year from the first of December, 1852, and if at least twenty miles are not in running order within three years from that date, then this charter shall be null and void.

Sec. 21. The said company shall have the right to take and hold so much of the public lands, not exceeding two hundred feet wide, as the said railroad, or any of its branches may pass through for the tract thereof, and such additional width as may be absolutely necessary for the depot or other work for the purposes of said railroad, that the company may deem proper to establish, and in all cases where such railroad or any branch thereof shall pass through any public lands, all such lands to the depth of three miles from the exterior line of the track on each side thereof, shall be reserved for the State from and after the time such track shall be fixed or designated by survey, recognizance or otherwise; and the said lands, as fast as the road is constructed, shall be divided into sections fronting one mile

each on the road, which sections shall be numbered, and the corners of each section on the road plainly marked; and of these reserved lands the company shall have the right by virtue of any of their certificates issued in accordance with the provisions of this act, to cause to be located, surveyed and patented for their use, each alternate section, such sections in each instance embracing a tract of land fronting one mile on the exterior track of said railroad and extending back three miles, preserving an equal width, and the remaining sections shall continue the property of the State until disposed of by the legislature.

Approved, February 16, 1852.

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## CHAPTER CCII.

### An Act to Incorporate the El Paso and Frontera Turnpike Company, in the county of El Paso.

Section 1. Be it enacted by the Legislature of the State of Texas. That T. F. White, and such other persons as he may associate with him, and their successors, are hereby constituted and incorporated a body corporate and politic, under the name and style of the "El Paso and Frontier Turnpike Company;" and under that name shall be capable to contract, to buy, receive and hold all property, real, personal and mixed, may have a common seal and alter the same at pleasure, may sue and be sued, plead and be impleaded in any court of this State; may pass all needful rules and regulations for the government of said company, not in conflict with the constitution and laws of this State, for the purpose of constructing a turnpike road from El Paso del Norte to Frontera, in the county of El Paso.

Sec. 2. That the said company shall have the right, and are hereby authorized to survey, mark and open a turnpike road to run as near the bank of the Rio Grande as practicable, from El Paso to Frontier, in the county of El Paso, and the said company shall have the right of way and the privilege of timber and rock, upon any vacant and unappropriated public lands through which said road may pass, and which may be necessary for the construction of said road, and keeping the same in good repair.

Sec. 3. That the said company, with the consent of the owners of the lands through which said road may pass, are required

to make a permanent road at least forty — wide, and, when necessary, to open ditches, and to make all needful bridges and causeways so that said turnpike shall be at all times passable and in good order.

Sec. 4. That said company are authorized, so soon as said road is completed, to collect and receive the following rates of toll, to wit: for each vehicle drawn by not more than four animals, not to exceed per wheel, and for each horse and mule or ox, more than four animals, ten cents; and for each horse or mule and rider, ten cents; and for all loose horses, mules or cattle, five cents per head; and for sheep or other animals, one dollar per hundred head.

Sec. 5. That said company may erect as many turnpike-gates as they may think proper on said road, but shall only charge the same person or persons at one of said gates; provided, they shall have the right of charging the above rates of toll, as well for a part of the distance of said road, as for the whole distance.

Sec. 6. That if any person or persons shall travel upon said road, or drive any wagon, or loose horse or horses, or mule or mules, or cattle, or any sheep upon said road, or shall injure in any manner the said turnpike road, or shall break or injure the gate or gates thereon, a right of action shall accrue to said company, and a suit may be instituted therefor before any court having competent jurisdiction.

Sec. 7. That the said company shall keep persons in attendance at such gates as they may establish on said road, in order that persons travelling thereon may suffer no detention or inconvenience, and should any person or persons using said road suffer any detention or inconvenience in consequence of the negligence or improper conduct of the said company or their agents, shall be held liable in an action for damages before any court of competent jurisdiction.

Sec. 8. The said company shall be entitled either, themselves, their agents or assigns, to receive the rates of toll hereinbefore provided, for the period of twenty years.

Sec. 9. That should said company fail to complete the said road, as herein provided, within three years from the passage of this act, then and in that case, this act shall be null and void.

Sec. 10. That nothing in this act shall be so construed as to allow the said company to intrude in any manner upon any established road to the injury of the public, nor to prevent any person or persons to approach the said Rio Grande and open ditches for irrigation, or obtain water for any purpose whatever.

Sec. 11. The corporation created by this act shall continue for twenty years and no longer.

Sec. 12. That this act take effect from and after its passage.

Approved, February 16, 1852.

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CHAPTER CCIII.

An Act to repeal an act to encourage the deepening of the Anahuac Pass at the Mouth of the Trinity river, approved December 20, 1851.

Section 1. Be it enacted by the Legislature of the State of Texas, That an act entitled "an act to encourage the deepening of the Anahuac Pass at the Mouth of the Trinity river," approved December 20, 1851, be and the same is hereby repealed.

Sec. 2. That this act take effect from and after its passage.

Approved, February 16, 1852.

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CHAPTER CCIV.

An Act to provide a suitable building for the State Department.

Section 1. Be it enacted by the Legislature of the State of Texas, That the building now occupied as a Land Office be, and is hereby set apart for the use of the State Department.

Sec. 2. The sum of three hundred dollars, or as much thereof as may be necessary, is hereby appropriated to place said building in a proper condition for filing and preserving the archives of the State Department, and for removing the same as herein authorised.

Sec. 3. This act shall take effect from its passage.

Approved, February 16, 1852.

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CHAPTER CCV.

An Act to Incorporate the Galveston Dry Dock Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That there shall be established a company composed of G. H. Delesdenier, J. E. Haverland, L. M. Hitchcock, E. D.

John, A. Moore and H. Wilson, with as many others as may be associated with them from time to time, their successors or assigns, under the name and style of the "Galveston Dry Dock Company," with a capital stock of sixty thousand dollars, with the privilege of increasing the same to one hundred thousand dollars, to be divided into shares of one hundred dollars each, for the purpose of erecting a Dry Dock on the bay side of the city of Galveston, at a point to be selected by the company.

Sec. 2. That the said company are hereby created a corporation under the name and style of the Galveston Dry Dock Company, and under that name and style, shall be capable to contract, to buy and to receive all kinds of property, moveable or immovable, real or personal, that may be necessary for said corporation to construct said Dry Dock appurtenances, and to make such other improvements as warehouses or machine shops at the discretion of the company, as may be deemed requisite to promote the interest of the company, and to negotiate, grant, lease, sell and dispose of any such property, to borrow money on the faith of this charter, and also to pledge said property, real or personal, for the payment of the same, to sue and be sued, and to have a common seal, to bind themselves with or without seal; and the said G. H. Delesdenier, L. M. Hitchcock, J. E. Haverland, E. D. John and A. Moore, are constituted commissioners to open the books for subscription to the capital stock, to close them, and to re-open them if necessary at such time and place as they may select, and superintend and control the operations of the company, until thirty thousand dollars of the stock is subscribed, when a meeting of the stockholders shall be called at a suitable time and place, a plurality being present holding a majority of shares, shall proceed to establish such ordinances, by-laws, rules and regulations as they may think necessary for the protection, use and government of said company, not contrary to the constitution and laws of Texas, or of the United States or the provisions of this charter.

Sec. 3. That the said company shall have power to levy, collect and receive such toll fees as may be determined upon by the said company, or that may be stipulated between the parties for docking vessels, and that all charges or fees in the absence of an agreement shall be uniform and on terms of equality with all persons availing themselves of the use of the dock, or improvements of the company; the legislature reserves the privilege of altering or changing the tariff of charges that may be established by the company; provided, the rates of fees shall not be reduced below the rates charged in New Orleans for the docking of vessels.



Sec. 4. That the said company is authorised to go into operation so soon as thirty thousand dollars of the capital stock is subscribed, and a sufficient amount secured or paid in, to justify its commencement.

Sec. 5. And this act to be in force from and after its passage.  
Approved, February 16, 1852.

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## CHAPTER CCVI.

### An Act for the relief of John Watson.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized to issue to John Watson, or his assigns, a certificate for one league and labor of land, being the amount to which the said John Watson is entitled as a headright at the date of the declaration of independence.

Sec. 2. That the said John Watson or legal representative be, and they are hereby authorised to have surveyed by virtue of said certificate, any unappropriated or vacant land of the State of Texas, and that the Commissioner of the General Land Office be, and he is hereby authorised to issue to them, their heirs or assigns, patents for said land when the same shall have been located and surveyed in accordance with the laws of the State.

Sec. 3. And that this act take effect and be in force from and after its passage.

Approved, February 16, 1852.

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## CHAPTER CCVII.

### An Act for the benefit of Jackson H. Griffin.

Whereas, the certificate for one league and labor of land issued to Jackson H. Griffin, exceeded the amount of land to which he was entitled; and whereas, said Jackson H. Griffin is entitled to one-third league of land as a headright, by virtue of his having received an honorable discharge for his services in the army of Texas, previous to the 14th day of December, 1837; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorised to issue to Jackson H. Griffin, a headright certificate for one-third league of land, which shall be located, surveyed and patented upon payment of the government dues and fees of office, as in other cases.

Sec. 2. That it shall be the duty of said Griffin to file with the Commissioner of the General Land Office, or account to him for the loss of the same, upon affidavit, the certificate for one league and labor which was issued to him by the Board of Land Commissioners of Liberty county, before the issuance of the certificate provided for in the first section.

Sec. 3. That this act take effect from and after its passage.

Approved, February 16, 1852.

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#### CHAPTER CCVIII.

An Act for the relief of James S. Ridgeway and the Heirs of M. J. Falvel, deceased.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to James S. Ridgeway, an augmentation headright certificate of three hundred and twenty acres of land; also, a first class certificate for one-third of a league of land to the heirs of M. J. Falvel, deceased, to be located on any of the public domain of this State.

Sec. 2. And that this act take effect from its passage.

Approved, February 16, 1852.

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#### CHAPTER CCIX.

An Act for the relief of Acquilla Brinkley.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to Acquilla Brinkley or his heirs, a certificate, the same being his headright, for twelve hundred and eighty acres of land, to be located on any of the vacant and unappropriated lands of this State, and

on the return of the field-notes to issue a patent on the same as in other cases provided by law.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved, February 16, 1852.

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CHAPTER CCX.

An Act for the relief of the heirs of William Calwell, Sen'r dec'd.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorised and required to issue to the heirs of William Calwell, Sen'r deceased, a certificate for one league and one labor of land; which certificate may be located, surveyed and patented as other first class headright certificates.

Sec. 2. And that this act take effect and be in force from and after its passage.

Approved, February 16, 1852.

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CHAPTER CCXI.

An Act for the relief of the Heirs of Samuel T. Sheffield.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized to issue to the heirs of Samuel T. Sheffield, a certificate for one-third league of land; provided, he shall be satisfied, from an examination of his office, that neither the said Sheffield or his heirs, or any one for, or in his or their name, have obtained land from the Mexican government, or any authority of the Republic or State of Texas.

Sec. 2. That said land may be surveyed and patented as in other cases, upon the payment of the government dues and fees of office.

Sec. 3. That this act take effect from and after its passage.

Approved, February 16, 1852.

## CHAPTER CCXII.

An Act for the relief of Jose Luis Cherino, his Heirs or Assigns.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office issue to Jose Luis Cherino, his heirs or assigns, a certificate for one league and labor of land; which certificate shall have all the rights and privileges that are common.

Sec. 2. That this act take effect from and after its passage.

Approved, February 16, 1852.

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## CHAPTER CCXIII.

An Act for the relief of William Hughes.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Land Office be, and he is hereby authorized and required to issue to William Hughes, a certificate for three hundred and twenty acres of land, which certificate may be located and patented as other second class head-right certificates; and that this act take effect and be in force from its passage.

Approved, February 16, 1852.

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## CHAPTER CCXIV.

An Act to establish the New Orleans, Texas and Pacific Railway Company, for the extension of the New Orleans, Algiers and Opelousas Railway through Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That Benjamin F. Hunt, B. F. Thompson, Irvin Lawson, William F. Echols, David G. Hardin, John R. Burke, Abel Adams and H. M. Bendy of this State, and Buckner H. Payne, Maunsel White, M. M. Cohen, R. F. Nichols, Ambrose Lanfear, Benjamin F. Flanders, Joseph W. Stanton, P. Sims, M. O. H. Norton, Samuel J. Peters, Jeconias Thayer, J. W. Flanagan, Henry W. Raguet, jr., B. Graham, Samuel A. Maverick and John Geddis, of the State of Louisiana, or a majority of them, their associates and successors, be, and are hereby

created and established a body corporate and politic, under the name and title of the "Texas Western Railroad Company," with the capacity in said corporate name, to make contracts, to have succession, and a common seal, to make by-laws for its government and the regulation of its affairs, to sue and be sued, to plead and be impleaded, to grant and receive, and generally to do and perform all such acts and things as may be necessary or proper for, or incident to the fulfilment of its obligations, or its maintenance of its rights under this act, and consistent with the constitution of the State.

Sec. 2. Said company be, and is hereby inversed with the right to locate, construct, own and maintain a railway, commencing at a suitable point on the Sabine river, between latitude 30° 30' and 32° 30' north, and thence running by such course and to such points on the Rio Grande, and up and down said river, as said company shall deem and determine to be most suitable, with the right of making, owning and maintaining such branches of said railway as they may deem expedient.

Sec. 3. The parties named in this act are hereby appointed commissioners, and invested with the right of forming and organizing said company, and generally of exercising the powers of directors, until directors are chosen, or appointed by such persons as may subscribe to the stock of said company, when the powers of said commissioners shall cease.

Sec. 4. The capital stock of said company, to consist of all its property, real and personal, franchises and rights to property, shall be divided into shares of one hundred dollars each, each share entitling the owner thereof to one vote by himself or proxy at all meetings of said company; that said shares shall be deemed personal estate, and shall be transferrable by any conveyance in writing, recorded by the Treasurer in books kept by him at his office, or in such manner as the by-laws of said company shall provide.

Sec. 5. The immediate government and direction of the affairs of said company shall be vested in a board of not less than six directors, who shall elect one of their own number as President of said company; no person shall be eligible to the office of director unless an owner or subscriber of at least five shares of the stock of said company; the directors shall have the power to fill any vacancy that may occur in said board from non-election, death or otherwise, and may appoint a Secretary, Treasurer and such other officers and agents as they may think necessary, and prescribe and require bonds for the faithful performance of their duties: they may, if not otherwise provided by the

by-laws, determine the manner of conducting all meetings, the number of members that shall constitute a quorum, and to do or cause to be done all other matters and things which they may deem necessary and proper in conducting the matters of the company; they shall keep or cause to be kept, accurate records of all meetings of the directors and company, and accurate books of accounts of the receipts and expenditures of the company, and all other books necessary and proper to be kept by such company, which shall be open to the inspection of the stockholders; a majority of the board of directors shall have the authority of a full board, and all conveyances and contracts, in writing, executed by the President and countersigned by the Secretary, or any other officer or person authorized by the directors under the seal of the company and in pursuance of a vote of said directors, shall be valid and binding.

Sec. 6. The shares may be disposed of, and the books opened for subscription thereto, in such manner and on such terms as said commissioners shall determine will be best for the interests of said company; and any agreement in writing by which any person shall become a subscriber to the capital stock of said company, may be enforced against him according to its terms; and if any subscriber shall fail to pay any amount due upon shares subscribed by him, according to the terms of his subscription, the directors may sell at auction, and transfer to the purchaser the shares of such delinquent; and if the proceeds of sale shall not be sufficient to pay the amount due on said subscription, with interest and charges, such delinquent shall be held liable to the company for the deficiency, and if the proceeds shall exceed the amount so due, with interest and charges, said delinquent shall be entitled to the surplus.

Sec. 7. It shall be lawful for the company to enter upon and purchase, or otherwise take and hold any land necessary for the purpose of establishing and constructing said railway, with all necessary depots and other buildings; and if they shall not be able to obtain said lands by agreement with the owner thereof, they shall pay therefor such compensation as shall be determined in the manner provided by the following section; provided, that the lands so taken for the road bed, shall not exceed two hundred feet in width; and for depots and other buildings only such further width as shall be needed for such purposes.

Sec. 8. Any person, when land has been taken as aforesaid without agreement or satisfactory compensation, may apply to the District Court of the county in which said land is situated, for the appointment of, and said Court shall thereupon appoint

three disinterested freeholders of the county, who shall appoint a time and place to hear the applicant and the company; to whom shall be given by said freeholders reasonable notice of said time and place, and said freeholders shall, after being sworn and after due hearing of the parties, determine the amount of compensation, if any, to which the applicant may be entitled, and make return of their award to the next succeeding term of said Court; and said award, if not rejected by said Court for sufficient cause then shown, shall be entered up as the judgment of said court. In determining the question of compensation, said freeholders shall be governed by the actual value of the land at the time it was taken, taking into consideration the benefit or injury done to the other lands and property of the owner, by the establishment of said railway, and if the amount of compensation awarded by said freeholders shall not exceed the amount offered by said company to the owner, prior to said application to the Court, the applicant shall pay the cost of the proceedings, otherwise the company shall pay the same.

Sec. 9. It shall be the duty of said company, whenever any State or county road, now by law established, shall be crossed by the track of said railway, to make and keep in repair good and sufficient causeways at such crossings, and in all cases where any person shall own lands on both sides of said railway, and there shall be no other convenient access from one part to the other, such owner shall have the right of passage, free of costs, at all reasonable times across the track of said railway.

Sec. 10. This company is hereby required at all reasonable times, and for a reasonable compensation, to draw over their road the passengers, merchandize and cars of any other railroad corporation, which has been or may hereafter be authorized by the Legislature to enter with their railroad and connect with the railroad of this company; and if the respective companies shall be unable to agree upon the compensation aforesaid, it shall be the duty of the President of each company to select each one man as a commissioner, and the two commissioners so selected shall choose a third, in case of disagreement, neither of whom shall be a stockholder in either road, or interested therein, and they shall fix the rates, which shall not be changed for one year from the time of going into effect. The said commissioners shall also fix the stated periods at which said cars are to be drawn as aforesaid, having reference to the convenience and interests of said corporations, and the public who shall be accommodated thereby; the right or power is specially conferred on this said com-

pany to connect and contract with any railroad company chartered by this State, for the performance of like transport, and in case of disagreement between said companies, the same shall be referred and settled as aforesaid, and be binding for one year as aforesaid.

Sec. 11. Said company may acquire real estate by gift or purchase, and that such commissioners hereinbefore mentioned, shall have full authority to solicit and receive subscriptions and conveyances of land to said company until the time fixed for the first meeting of said commissioners, which authority may then be extended by said meeting, which said land so obtained, shall be alienated by said company in the following manner: one-fourth in six years, the one-fourth in eight years, the one-fourth in ten years, and the other fourth in twelve years from the time the same was acquired.

Sec. 12. If the track of this railway shall cross any navigable stream, it shall do it in such a way as not to obstruct its navigation.

Sec. 13. Said company may have the right to demand and receive such rates and prices for the transportation of passengers and freight as they may think proper to establish, not to exceed five cents per mile for passengers, and fifty cents per hundred pounds for freight for every hundred miles the same may be carried.

Sec. 14. If any person shall wilfully injure or obstruct said railway or its property, such person may be punished, when prosecuted by indictment for said offence in due course of law, and also liable to action by said company or any person whatever, who may suffer in person or property from said wilful obstruction, for the amount of damages occasioned thereby.

Sec. 15. There shall be granted to said company eight sections of land of six hundred and forty acres each, for every mile of railway actually completed by them and ready for use, and upon the application of the President of the company, or any duly authorized agent thereof, stating that any section of five miles or more of said railway has been completed and is ready for use, it shall be the duty of the Comptroller of public accounts to require the State engineer, or a commissioner to be appointed by the Governor, to examine said railway, and upon his certificate that said section of said railway has been completed in a good and substantial manner, and is ready for use, the Comptroller shall give information of that fact to the Commissioner of the General Land Office, whose duty it shall be to issue to said company land certificates to the amount of eight sections



of land, of six hundred and forty acres each, for each and every mile of railway thus completed and ready for use; such certificates shall be for six hundred and forty acres each, and shall be located upon any unappropriated public domain of the State of Texas, within twelve months from the issuing thereof, which date shall appear upon the face of each certificate; and upon the return of the field-notes of any survey made by virtue of any certificate thus issued, it shall be the duty of the Commissioner of the General Land Office to issue patents to said company in their corporate name; one-fourth of which said lands thus patented shall be alienated by the company in six years, one-fourth in eight years, one-fourth in ten years, and one-fourth in twelve years, so that the whole of the lands thus granted shall pass from the hands of the company within twelve years from the date of the patents thus issued.

Sec. 16. Said company shall be required to have a good and sufficient brake upon the hindmost car in all trains transporting passengers or merchandize, and also permanently stationed there, a trusty and skillful brakeman under a penalty of not exceeding the sum of one hundred dollars for each offence, to be recovered in any court of competent jurisdiction for the benefit of the State; and said company shall cause to be placed on each locomotive engine passing over their road, a bell of the weight of at least thirty-five pounds, or a steam whistle, and the said bell shall be rung, or the whistle blown, at the distance of at least eighty rods from the place of crossing any highway or turnpike, and kept ringing or blowing until the engine has passed or stopped; said company shall be required to construct their railroad with good T or U iron rails; provided, that no land shall be donated unless the company shall actually commence their road within two years, and actually complete and finish at least ten miles within three years; and, provided, also, that the alternate sections belonging to the State, named in this section, shall not be subject to entry or location; but shall be sold under such laws as may hereafter be passed, and the money paid into the State Treasury.

Sec. 17. The first meeting of the Commissioners or Directors appointed by this act shall be held at such time and place as they may direct, in which and all subsequent meetings, said directors may act in person or by proxy.

Sec. 18. Nothing in this act shall be so construed as to confer banking privileges or powers of any kind whatever.

Sec. 19. If said railway shall not be commenced within five years from the passage of this act, and at least twenty miles

thereof are not completed within six years, then this charter shall be null and void; and it is hereby provided and declared, that it shall be lawful for any other railway hereafter to be constructed to cross the said railway or any branch thereof, or to connect at any point therewith.

Approved, February 16, 1852.

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#### CHAPTER CCXV.

Joint Resolution granting Stephen Crosby, Commissioner elect of the General Land Office, leave of absence from the State.

Section 1. Be it resolved by the Legislature of the State of Texas, That Stephen Crosby, Commissioner elect of the General Land Office for the ensuing two years, be, and he is hereby granted sixty days leave of absence from the State during his term of office, at such time as may be best calculated to promote his health and be the least prejudicial to the business of the office; and that this joint resolution take effect from its passage.

Passed, February 16, 1852.



## STATE OF TEXAS.

I, Thomas H. Duval, Secretary of State of the State of Texas, certify that the Fourth Legislature of said State, commenced its session at the City of Austin, on Monday the 3d day of November, in the year one thousand eight hundred and fifty-one, and adjourned on Monday the 16th day of February, in the year one thousand eight hundred and fifty-two.

And I further certify, that the Acts and Joint Resolutions contained in this volume, are true copies taken from the original rolls deposited in the Department of State, with which they have been carefully compared.

[L. S.]      Given under my hand and official seal, at the City of Austin, the twenty-sixth day of April, in the year one thousand eight hundred and fifty-two.

THOMAS H. DUVAL.

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**L A W S**

**OF**

**THE FOURTH LEGISLATURE**

**OF**

**THE STATE OF TEXAS**

**SECOND SESSION.**

**AUSTIN.**  
**1853**



# GENERAL LAWS

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## CHAPTER I.

### AN ACT

Concerning certain Lands in Austin's Second Colony, and the Colony of Austin and Williams.

Whereas, some doubts have arisen as to the true line of the Western boundary of the Colonies known as Austin's second Colony, and the Colony of Austin and Williams, and the rights of many citizens may be injuriously affected unless said doubts are removed, or the said rights otherwise protected; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That all grants made by Commissioners of Austin's second Colony, or Austin and Williams' Colony, and lying in a triangular tract of country south of the upper road from Bexar to Nacogdoches, and between lines drawn north-east and north-west from the western source of the Lavaca river to said road, be and are hereby declared to be as valid as if situated within the undoubted limits of said Colonies, and the State hereby releases her claim to the same; provided, that the provisions of this act shall not be so construed as to apply to any grant for a greater amount of land than one league and one labor, nor to any others than those made to Colonists for their headrights, or for premium lands to the Empresario.

Approved, January 25, 1853.

## CHAPTER II.

## AN ACT

Supplementary to an Act concerning certain Lands in Austin's second Colony, and the Colony of Austin and Williams.

Section 1. Be it enacted by the Legislature of the State of Texas, That the aforesaid act passed at the present session of the Legislature, shall take effect and be in force from and after its passage, and this act shall take effect and be in force from and after its passage.

Approved, January 26, 1853.

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CHAPTER III.

An Act reinstating Joseph F. Smith as an Attorney and Counsellor at Law.

Section 1. Be it enacted by the Legislature of the State of Texas, That Joseph F. Smith, a citizen of the county of Victoria, be, and he is hereby reinstated into all the rights privileges and immunities of an Attorney and Counsellor at Law, from which he was stricken by a rule of the District Court of Travis county; and the said Joseph F. Smith is hereby authorized to do and transact all business which he might, could, or ought to do as an Attorney and Counsellor at Law, the same as if no rule of said court had been made against him, until the writ of error, now pending to said judgment of the District Court of Travis county, shall have been decided by the Supreme Court.

Sec. 2. That this act shall take effect and be in force from and after its passage.

Approved, January 2, 1853.



CHAPTER IV.

AN ACT

To apportion the Senators and Representatives of the Legislature among the several Counties of this State, according to the requirements of the Constitution.

Section 1. Be it enacted by the Legislature of the State of Texas, That the State of Texas shall be divided into thirty-three Senatorial Districts, which shall be severally entitled to one Senator, and formed as follows, to wit:

- No. 1. Red River and Bowie shall elect one senator;
- No. 2. Lamar and Hopkins one senator;
- No. 3. Fannin and Hunt one senator;
- No. 4. Collin, Grayson, Denton, Kaufman and Cooke one senator.
- No. 5. Dallas, Tarrant and Ellis one senator;
- No. 6. Upshur and Wood one senator;
- No. 7. Cass and Titus one senator;
- No. 8. Harrison one senator;
- No. 9. Rusk one senator;
- No. 10. Smith and Van Zandt one senator;
- No. 11. Cherokee one senator;
- No. 12. Anderson and Houston one senator;
- No. 13. Nacogdoches and Angelina one senator;
- No. 14. Shelby and Panola one senator;
- No. 15. San Augustine, Newton, Jasper and Sabine one senator;
- No. 16. Jefferson, Liberty, Polk, Trinity, Orange and Tyler one senator;
- No. 17. Galveston one senator;
- No. 18. Harris one senator;
- No. 19. Montgomery, Walker, Madison and Grimes one senator;
- No. 20. Washington one senator;
- No. 21. Leon, Robertson, Brazos and Burleson one senator;
- No. 22. Freestone, Limestone, Navarro and Henderson one senator.
- No. 23. McLennan, Falls, Bell, Williamson and Milam one senator;
- No. 24. Matagorda, Wharton, Brazoria and Fort Bend one senator;
- No. 25. Bastrop, Travis and Burnett one senator;

No. 26. Calhoun, Victoria, Jackson, Goliad, De Witt and Lavaca one senator.

No. 27. Gonzales, Guadalupe, Caldwell, Hays and Comal one senator;

No. 28. Cameron and Hidalgo one senator;

No. 29. Starr, Webb, Nueces, San Patricio, Refugio and Kinney one senator;

No. 30. Bexar one senator;

No. 31. Gillespie, Bexar, Medina and Uvalde one senator;

No. 32. Fayette, Colorado and Austin one senator;

No. 33. El Paso and Presidio one senator.

Sec. 2. The chief-justice of Red River shall receive the returns, and give the certificate of election to the Senator elect of the first senatorial district;

The chief-justice of Lamar county for the second district;

The chief-justice of Fannin for the third district;

The chief-justice of Collin for the fourth district;

The chief-justice of Dallas for the fifth district;

The chief-justice of Upshur for the sixth district;

The chief-justice of Cass county for the seventh district;

The chief-justice of Harrison county for the eighth district;

The chief-justice of Rusk county for the ninth district;

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The chief-justice of Cherokee county for the eleventh district;

The chief-justice of Anderson for the twelfth district;

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The chief-justice of Bell county for the twenty-third district;

The chief-justice of Brazoria county for the twenty-fourth district;

The chief-justice of Travis county for the twenty-fifth district;

The chief-justice of Victoria county for the twenty-sixth district;

The chief-justice of Guadalupe county for the twenty-seventh district;

The chief-justice of Cameron county for the twenty-eighth district;

The chief-justice of Nueces county for the twenty-ninth district;

The chief-justice of Bexar county for the thirtieth district;

The chief-justice of Bexar county for the thirty-first district;

The chief-justice of Colorado county for the thirty-second district;

The chief-justice of El Paso county for the thirty-third district;

Sec. 3. That the State shall be divided into Representative Districts, and the Counties and Representative Districts shall elect members of the House of Representatives as follows, to wit:

No. 1. Bowie shall elect one representative;

No. 2. Red River one representative;

No. 3. Lamar two representatives;

No. 4. Fannin one representative;

No. 5. Grayson one representative;

No. 6. Collin one representative;

No. 7. Denton, Collin and Cooke one representative;

No. 8. Dallas one representative;

No. 9. Hunt one representative;

No. 10. Hopkins one representative;

No. 11. Hopkins, Fannin and Red River one representative.

No. 12. Titus one representative;

No. 13. Cass one representative;

No. 14. Cass and Titus one representative;

No. 15. Harrison three representatives;

No. 16. Upshur one representative;

No. 17. Smith two representatives;

No. 18. Wood and Van Zandt one representative;

No. 19. Kaufman and Henderson one representative;

No. 20. Anderson two representatives; -

- No. 21. Cherokee three representatives;
- No. 22. Rusk four representatives;
- No. 23. Panola one representative;
- No. 24. Shelby one representative.
- No. 25. Shelby, Panola and San Augustine one representative;
- No. 26. San Augustine one representative.
- No. 27. Nacogdoches two representatives;
- No. 28. Houston one representative;
- No. 29. Polk and Trinity one representative;
- No. 30. Sabine, Jasper and Newton two representatives;
- No. 31. Angelina and Cherokee one representative;
- No. 32. Jefferson and Orange one representative.
- No. 33. Liberty one representative;
- No. 34. Tyler one representative;
- No. 35. Galveston two representatives;
- No. 36. Harris two representatives;
- No. 37. Montgomery one representative;
- No. 38. Walker one representative;
- No. 39. Grimes one representative;
- No. 40. Walker, Madison and Grimes one representative;
- No. 41. Leon one representative;
- No. 42. Freestone, Limestone and Falls one representative;
- No. 43. Navarro one representative;
- No. 44. Ellis and Tarrant one representative;
- No. 45. Bell and McLennan one representative;
- No. 46. Robertson and Milam one representative;
- No. 47. Burleson and Brazos one representative;
- No. 48. Williamson and Burnett one representative;
- No. 49. Washington two representatives;
- No. 50. Austin one representative;
- No. 51. Fort Bend and Austin one representative;
- No. 52. Brazoria one representative;
- No. 53. Matagorda and Wharton one representative;
- No. 54. Colorado one representative;
- No. 55. Fayette one representative;
- No. 56. Bastrop one representative;
- No. 57. Travis one representative;
- No. 58. Fayette, Bastrop and Travis one representative;
- No. 59. Jackson and Calhoun one representative;
- No. 60. Victoria and Goliad one representative;
- No. 61. Lavaca and De Witt one representative;
- No. 62. Gonzales one representative;
- No. 63. Guadalupe one representative;

- No. 64. Caldwell and Hays one representative;
- No. 65. Nueces, San Patricio and Refugio one representative;
- No. 66. Webb one representative;
- No. 67. Starr one representative;
- No. 68. Cameron one representative;
- No. 69. Cameron and Hidalgo, one representative;
- No. 70. Bexar three representatives;
- No. 71. Bexar, Uvalde, Gillespie, Medina, Kinney and Comal one representative;
- No. 72. Comal and Gillespie one representative.
- No. 73. El Paso and Presidio one representative.

Sec. 4. That in the several Representative Districts composed of more counties than one, the chief-justices of the following named counties shall receive the returns and give the certificates of election to the person receiving the highest number of votes for representative, to wit:

- The chief-justice of Denton county for the seventh district;
- The chief-justice of Hopkins county for the eleventh district;
- The chief-justice of Cass county for the fourteenth district;
- The chief-justice of Wood county for the eighteenth district;
- The chief-justice of Henderson county for the nineteenth district;
- The chief-justice of Shelby county for the twenty-fifth district;
- The chief-justice of Polk county for the twenty-ninth district;
- The chief-justice of Sabine county for the thirtieth district;
- The chief-justice of Angelina county for the thirty-first district;
- The chief-justice of Jefferson county for the thirty-second district;
- The chief-justice of Grimes county for the fortieth district;
- The chief-justice of Limestone county for the forty-second district;
- The chief-justice of Ellis county for the forty-fourth district;
- The chief-justice of Bell county for the forty-fifth district;
- The chief-justice of Milam county for the forty-sixth district;
- The chief-justice of Burleson county for the forty-seventh district;
- The chief-justice of Williamson county for the forty-eighth district;
- The chief-justice of Fort Bend county for the fifty-first district;

The chief-justice of Matagorda county for the fifty-third district;

The chief-justice of Bastrop county for the fifty-eighth district;  
The chief-justice of Jackson county for the fifty-ninth district;  
The chief-justice of Victoria county for the sixtieth district;  
The chief-justice of Lavaca county for the sixty-first district;  
The chief-justice of Caldwell county for the sixty-fourth district;  
The chief-justice of Nueces county for the sixty-fifth district;  
The chief-justice of Cameron county for the sixty-ninth district;  
The chief-justice of Bexar county for the seventy-first district;  
The chief-justice of Comal county for the seventy-second district;

The chief-justice of El Paso county for the seventy-third district.

Sec. 5. That at elections hereafter for Senators and Representatives in the Legislature of this State, they shall be elected for the Districts herein designated; Provided, That the chief-justice of Nueces county, the returning officer for the twenty-ninth Senatorial District, shall, on the thirtieth day after the day of the election in the several counties of said twenty-ninth Senatorial District, open and examine said returns and give the certificate of election as in other cases provided for by law.

Sec. 6. That whenever a new county shall be created, it shall vote in the Senatorial and Representative District or Districts from which it is taken.

Passed, February 2, 1853.

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## CHAPTER V.

### An Act to create the County of Madison:

Section 1. Be it enacted by the Legislature of the State of Texas, That all that portion of territory comprised within the following limits shall be erected into a new county, to be called the county of Madison.

Sec. 2. Beginning at the mouth of Bédias creek on the Trinity river, and running up the main Bédias to a point where the line between the counties of Grimes and Walker crosses the same; thence by a direct line to the north-west corner of a tract of land in the name of B. Q. Hadley, on the Navasoto river; thence up said stream to where the San Antonio road crosses the same; thence running with the south boundary of Leon county to the south-west corner of Alce Garrett's survey; thence on a direct line to the north-east corner of Hiram Walker's survey on the west bank of the Trinity river, and thence down the river to the place of beginning.

Sec. 3. That it shall be, and is hereby made the duty of the Chief Justice of Grimes county to organize the said county of Madison on the first Monday in April next, by ordering an election for county officers, and conducting the same in all respects in conformity to law.

Sec. 4. That so soon as the said county of Madison has been organized as aforesaid, and the officers of the same qualified according to law, they shall enter upon the discharge of their respective offices; and all courts in and for the county, shall be held at the house of James Mitchell, Junr., until the county seat of said county shall be permanently located by the citizens thereof.

Sec. 5. That so soon as the county shall have been organized as aforesaid, it shall be the duty of the Chief-Justice of said county to receive proposals as inducements, and issue an order for an election, to be held for the permanent location of the county seat of said county; which proposals shall be in the shape of penal bonds, and made payable to the Chief-Justice aforesaid, and his successors in office.

Sec. 6. That a majority of the votes polled shall determine the location, and in the event no place receives such majority in the first election, the Chief-Justice shall order a new election, putting in nomination the two places having received the highest number of votes in the first election, and the point which shall receive the highest number of votes in the said second election, shall be the lawful county seat of said county of Madison, and shall be known by the name of, and called Madisonville; provided, the said county seat to be located shall, in no event, be more than five miles from the centre of the said county.

Approved, January 27, 1853.

## CHAPTER VI.

## AN ACT

Making appropriations to defray the expenses of three Companies of Volunteers, called into the service of the State for the protection of the frontier.

Section 1. Be it enacted by the Legislature of the State of Texas, That the following sums be, and the same are hereby appropriated to defray the expenses of the companies of volunteers commanded by Captains Shaw, Lewis and Davis, respectively, which were called into the service of the State by His Excellency, the Governor, for the protection of the frontier, viz:

For pay and mileage of said companies, forty-eight thousand one hundred and forty-six dollars.

For subsistence and forage of the same, as per contracts now on file in the office of the Adjutant-General, twenty-nine thousand five hundred dollars and ninety-two cents.

For purchase of Quarter-master's stores, ordnance stores, camp and garrison equipage, medicines, etc., four thousand five hundred dollars.

For pay of three Surgeons, one thousand eight hundred dollars.

For expenses incurred by Col. J. S. Gillett, Adjutant General, in organizing said force, three hundred dollars.

Sec. 2. That the Governor be, and he is hereby authorized to appoint some suitable person, who shall, upon giving bond and security in such sum as the Governor may require, be authorized to draw from the Treasury of the State, the sum above appropriated for the pay and mileage of the said three companies, and shall repair at such time, and to such place or places as the Governor may direct, and there, at the expiration of their respective terms of service, pay to said companies the amounts which may be due them, making a proper return thereof to the Comptroller; and it shall be the duty of said person thus appointed, to receive and receipt for all articles of public property which may be turned over to him by the officers of the said companies, and to dispose of the same for the benefit of the State, according to such directions as may be given to him by the Governor, making a due return thereof to the Comptroller.

Sec. 3. That the Paymaster thus appointed shall, in paying



the troops assigned to him by this act, recognize all sums placed on the muster-rolls of said companies by their respective officers, as due by them for arms or supplies furnished, and that the said amounts shall be deducted from the sums due by the State, and paid to the parties furnishing them.

Sec. 4. That the sum of five hundred dollars be, and the same is hereby appropriated to carry into effect the above section, No. 2.

Sec. 5. That the Comptroller is hereby authorized and required to settle the accounts of the contractors for the supply of forage and subsistence, as per contract now on file in the office of the Adjutant-General, so far as they may appear, by proper vouchers, to have been performed; and, upon his warrant, the Treasurer is authorized to pay the amounts found due.

Sec. 6. That the Comptroller is hereby authorized to examine and allow such accounts for quarter-master's stores, camp and garrison equipage, ordnance stores, transportation, medicines, etc., as may be presented in proper form, duly certified to by the respective commanders of companies; provided, that no account, or item in any account, shall be allowed or paid, which are not allowed by the regulations of the United States' Army.

Sec. 7. That the Comptroller shall issue his warrant upon the Treasurer for the compensation of medical services rendered the above named companies, upon the presentation of the usual contracts in due form.

Sec. 8. That this act take effect from and after its passage.

Approved, January 29, 1853.

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## CHAPTER VII.

### AN ACT

To authorize the Clerk of the District Court of Houston County to transcribe certain Records.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Clerk of the District Court of Houston county be, and he is hereby authorized and required to transcribe into a well bound book, to be furnished by the County of Houston for that purpose, the minutes of the District Court of said

county, contained in book "A," and when the same shall have been examined and approved by the County Court of said county, the same shall have all the force and effect in law and equity that the original could or should have; and all certified copies taken from the same shall be as valid, and have the same force and effect as if taken from the original.

Sec. 2. That the said Clerk shall receive such compensation for his services as shall be allowed by said Court, not to exceed fifteen cents for each hundred words so transcribed.

Sec. 3. That this act take effect and be of force from its passage.

Approved, January 31, 1853.

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## CHAPTER VIII.

### An Act concerning offences committed by Negroes.

Section 1. Be it enacted by the Legislature of the State of Texas, That if a free negro plot or conspire the murder of a white person, or maliciously shoot, stab, cut or wound, or by any means cause bodily injury to a white person with intent to kill, he shall be punished at the discretion of the jury, either with death, or by confinement in the Penitentiary, not less than three nor more than ten years.

Sec. 2. That if a free negro carnally know a white female of the age of twelve years or more, by force or fraud, or carnally know a white female child under that age, or attempt by force or fraud to have carnal knowledge of a white female, he shall be punished with death.

Sec. 3. That if a free negro take away or detain against her will a white female, with intent to marry or defile her, or cause her to be married or defiled by another person, or take from any person having lawful charge of her, a white female child under twelve years of age, for the purpose of prostitution or concubinage, he shall be punished with death.

Sec. 4. That if a free negro commit any other offence not specified in this act, he shall be punished as a free white person.

Sec. 5. That if a slave plot or conspire to rebel or make insurrection, or commit an offence for the commission of which a free negro is punishable with death, or by confinement in the

penitentiary for not less than three years, he shall be punished with death.

Sec. 6. That if a slave commit an offence for which a free negro, if he had committed it, might be punished by confinement in the penitentiary for a period less than three years, such slave shall be punished by stripes, not exceeding fifty, at the discretion of the jury.

Sec. 7. That if a slave commit an offence, the commission of which, by a free person, is punishable as a misdemeanor, he shall be punished by stripes not exceeding thirty-nine.

Sec. 8. That a negro shall be punished with not exceeding thirty-nine stripes, for the commission of the following offences: first, if he use provoking language or menacing gestures to a white person; if he punish a slave, without the consent of his owner or manager, any pass, permit or token of his being from home with authority; if he keep or carry fire-arms, sword, or other weapon, or balls, or ammunition, besides forfeiting to the county any such articles in his possession; fourth, if he be guilty of being in a riot, rout, unlawful assembly, or of making seditious speeches; fifth, if he sell or attempt to sell, or prepare, or administer any medicine, except where a slave administers medicine by his master's order, in his family, or in the family of another with the consent of such other, and except also, when a free negro administers medicine in his own family, or in the family of another person with the consent of such other.

Sec. 9. That the word negro, in this or any other statute of this State, shall also be construed to mean mulatto, and every person who has one-fourth part or more of negro blood, shall be deemed a mulatto.

Sec. 10. That the punishment of a negro by stripes, when assessed by a jury, shall be at their discretion, so as not to affect life; and when assessed by a justice, shall not exceed fifty lashes.

*Of criminal proceedings against Negroes and Slaves.*

Sec. 11. That the trial of negroes charged with felonious homicide, or any offence punishable with death, shall be in the District Courts, where the proceedings shall be as in the case of white persons.

Sec. 12. That on any indictment of a negro in the District Court, the accused may be found not guilty of the offence charged, but guilty of any offence of which a free white person

might be found guilty on such indictment, and the jury may find and assess such punishment against him as the offence would justify, if the negro had been charged therewith in the county court as is hereinafter provided.

Sec. 13. That the county courts of each county, to consist of the Chief-Justice and two Commissioners, at least, or of three Commissioners at least, in case of disability or absence of the Chief-Justice or vacancy in that office, shall be a criminal tribunal for the trial of negroes and slaves charged with felony, except in the cases provided for in the two preceding sections.

Sec. 14. That such trials in the county courts shall be on sworn information, or charge in writing entered of record, stating the offence and verified by affidavit, but without a grand jury, or a presentment or indictment.

Sec. 15. That free negroes charged with any offence in the county courts, and slaves charged with offences punishable by death, shall be entitled to trial by a jury of twelve good and lawful men, freeholders of the county, summoned for the purpose, and shall have the same right of challenge allowed by law to white persons.

Sec. 16. That no one interested in a slave charged with crime shall sit on his trial as a member of the court, or as a juror.

Sec. 17. That in all criminal cases before the county court, if no counsel be employed to prosecute by private persons, the court may employ some competent attorney to perform that duty, who shall be entitled to such compensation as may be agreed on, to be paid out of the county treasury.

Sec. 18. That on trial of slaves for felony, the court shall assign counsel to defend, if none be employed, and allow him such fee, not to exceed one hundred dollars, which shall be paid by the owner of the slave.

Sec. 19. That a regular term of the county court for the trial of negroes, may be had on the first Monday in every month, when the court shall deem it necessary, and any such term may continue until all business of the court be disposed of.

Sec. 20. That the clerk of the county court shall be the clerk of the tribunal established by this act, shall issue all process ordered to enforce the jurisdiction conferred, and keep a correct record of all the proceedings of the court in a separate book provided for that purpose, and shall be entitled to receive the same fees and compensation that the clerk of the district court would be entitled to receive for similar services.

Sec. 21. That for good and satisfactory cause shown and verified by affidavit in open court, the trial of negroes may be continued from term to term not exceeding two continuances.

Sec. 22. That on a charge against a negro for felony, the court or jury may find the accused not guilty of the offence charged, but guilty of any offence for which a free white person might be found guilty on an indictment for such felony, and may assess the punishment therefor where it is not fixed by law, and give judgment accordingly.

Sec. 23. That if a slave or negro condemned to death escape before his or her execution, and be retaken, the jailor or sheriff of the court by which the slave was condemned, shall promptly inform the said court of the fact, and the court on being satisfied of his or her identity, shall cause the sentence to be carried into effect on a day appointed by it.

Sec. 24. That a slave shall be tried for a misdemeanor by a justice of the county in which the offence is committed.

Sec. 25. That a free negro shall be tried by such justice for a misdemeanor punishable by stripes. For any other misdemeanor he or she may be tried in the county court, but a justice before whom a free negro is charged with a misdemeanor punishable by fine and imprisonment, or either, may try him or her and inflict such punishment as he would inflict on a slave for the same offence, or commit or recognise him for trial at the next court of the county.

Sec. 26. That in the case of a negro convicted of a misdemeanor by a justice, the decision may be removed by certiorari to the county court by the negro, if free, or if he be a slave, by his owner; such negro shall, unless let to bail, be committed by the justice to jail, until the next term of such court, and the witnesses shall also be recognized to appear at the same time.

Sec. 27. That every such certiorari shall be tried in the county court without pleadings in writing, and without a continuance, except for good cause shown, and the court shall hear all the evidence on either side, and give such judgment as seems to it proper, and enforce the execution thereof.

Sec. 28. That the chief justices of the several counties shall have power to issue writs of certiorari in any case arising under this act.

Approved, February 3, 1853.

## CHAPTER IX.

## AN ACT

To amend an act to create the County of Hidalgo.

Section 1. Be it enacted by the Legislature of the State of Texas, That the first section of the act entitled "an act to create the county of Hidalgo," approved January 24, 1852, be so amended as to read as follows:

Section 1. Be it enacted by the Legislature of the State of Texas, That the territory embraced within the following limits, to wit: beginning at the south-east corner of a tract of land called the "Llano Grande," at a point on the Rio Grande where the easterly line of said Llano Grande strikes the said river; and running thence northerly along the easterly line of said land, and extending said line until it strikes the southerly line of Nueces county; thence, in a north-westerly direction, along the southern line of Nueces county to the north-eastern corner of Starr county; thence, in a south-westerly direction, along the lower or easterly line of Starr county to the Rio Grande; thence down the meanders of the Rio Grande to the place of beginning, shall be constituted into a new county and shall be called Hidalgo.

Sec. 2. This act shall take effect from and after its passage.

Approved, February 4, 1853.

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CHAPTER X.

An Act to authorize the County Court of Comal county to levy and collect a Special Tax.

Section 1. Be it enacted by the Legislature of the State of Texas, That the County Court of Comal County be, and they are hereby authorized and empowered to cause to be levied and collected upon all the citizens and taxable property of the county, a special tax upon the same, not to exceed the State tax, for five years; provided, that the chief justice of said county shall first order an election, by giving at least twenty days notice thereof, whether a majority of the electors of said county are in favor of levying such tax.

Section 2. That if the citizens of said county should dissent from the provisions of this act, at the first election, the Chief Justice of said county may order a new one at the next regular election for county officers, and if at any of such elections a majority of all the qualified electors shall vote in favor of levying and collecting said special tax, then the County Court of said county shall direct the Assessor and Collector of the county to collect said special tax, under the law regulating the collection of county taxes, so far as the same is applicable.

Section 3. That the County Court shall apply the money, so collected, to the building of a Courthouse and Jail, and for no other purpose whatever.

Section 4. That this act take effect from and after its passage.

Approved February 4, 1853.

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## CHAPTER XI.

### AN ACT

To amend the 99th, 130th and 131st sections of An Act to regulate proceedings in the District Court, approved May 13th, 1846.

Section 1. Be it enacted by the Legislature of the State of Texas, That the 99th, 130th and 131st sections of the act recited in the title of this act, be, and are so amended as to read as follows, viz:

Sec. 99. No plaintiff shall be permitted to suffer a nonsuit after the jury retire from the bar; but after the argument of a cause, and before the jury retires, the Judge may deliver a charge to them on the law of the case, under the following restrictions, viz:

He shall not in any case, civil or criminal, charge or comment on the weight of the evidence: he shall so frame his charge so as to submit questions of fact solely to the decision of the jury, deciding on and instructing them as to the law arising on the facts, distinctly separating questions of law from questions of fact; he shall not charge or instruct the jury in any case, unless the charge shall have been by him first reduced to writing, and signed, and every such charge or instruction, shall be

given in the precise words in which it shall have been written; all charges or instructions, whether given by the Judge of his own accord, or upon request of counsel or parties, may be carried from the bar by the jury in their retirement; and no Judge shall in any case make any further charge, unless on the application of the jury, or a party, or his counsel.

Sec. 130. In cases where a sole plaintiff, or one of the several plaintiffs shall die after judgment, it shall be the duty of the Clerk to issue execution on such judgment, in the name of the legal representatives of such deceased sole plaintiff, or in the name of the surviving plaintiffs, and the legal representatives of the deceased plaintiff, as the case may require, without further notice to the defendant, upon an affidavit of such death being entered of record or filed with the Clerk by such legal representative or the attorney of record of such plaintiff, together with a certificate of the appointment of such representative under the hand and seal of the Clerk of the court where the same was made, and in cases where an executor, administrator or guardian is plaintiff, and shall die or cease to be such executor, administrator or guardian after judgment, execution shall be issued on each judgment in the name of the person succeeding him in the administration or guardianship, upon such successor filing of record with the Clerk, a certificate of his appointment and qualification as such, under the hand and seal of the court where such appointment was made.

Sec. 131. In cases where a sole defendant dies after judgment for money against him, the plaintiff may proceed to establish his claim against the estate, by presenting a certified copy of such judgment to the executor or administrator of such decedent as directed by law for the settlement of estates of deceased persons, and where there are two or more defendants, one or more of whom die after judgment, for money, leaving one or more surviving, then the plaintiff shall be entitled to execution against such survivor or survivors, by filing an affidavit of such death with the Clerk of the court, and may also proceed to establish his claim against the estate of the party deceased in the mode directed by law. In all cases of judgments, other than money judgments where the sole defendant, or one or more of several joint defendants shall die after judgment, the plaintiff shall be entitled to have execution thereon against the legal representatives of such deceased party or parties, without being required to revive the same by scire facias, or otherwise, upon an affidavit of such death being filed with the Clerk of the court; provided, that no defendant



shall be deprived of the right to quash or enjoin such execution by showing satisfaction of the same.

Approved, February 5, 1853.

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CHAPTER XII.

AN ACT

To give certain Civil and Criminal jurisdiction to the Mayor of the town of Washington, in Washington county.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Mayor of the town of Washington, in the county of Washington, shall hereafter have and exercise all the powers and jurisdiction, both civil and criminal, of a justice of the peace within and throughout the limits of said town, and shall be governed in the exercise of such powers and jurisdiction by all laws enacted, or to be enacted for the government of justices of the peace in similar cases.

Sec. 2. That before the Mayor shall enter upon the discharge of any of the duties and powers granted in the preceding section, he shall execute a bond with two or more sufficient securities, in the sum of one thousand dollars, payable to and approved by the chief-justice of Washington county, conditioned as in cases of justices of the peace, and shall take the oath of office prescribed by law, before some officer authorized to administer oaths, which shall be endorsed on his bond, together with the certificate of the officer who administered the same, which bond and oath shall be endorsed and recorded as in cases of justices of the peace.

Sec. 3. That this act shall take effect and be in force from its passage.

Approved, February 5, 1853.

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CHAPTER XIII.

An Act making appropriations for the improvement of the Rivers of the State.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of thirty-three thousand dollars be, and

the same is hereby appropriated to the improvement of the navigation of the Sabine river;

That the sum of thirty-seven thousand five hundred dollars be, and the same is hereby appropriated to the Trinity river;

That the sum of thirty-seven thousand five hundred dollars be, and the same is hereby appropriated to the Brazos and Little rivers, and toward the completion of the canal now in progress of construction under the direction of the Galveston and Brazos Navigation Company;

That the sum of thirty-seven thousand five hundred dollars be, and the same is hereby appropriated to the Colorado river;

That the sum of twenty-three thousand dollars be, and the same is hereby appropriated to the Neches and Angelina rivers;

That the sum of twenty-one thousand dollars be, and the same is hereby appropriated to the Guadalupe river;

That the sum of eleven thousand five hundred dollars be, and the same is hereby appropriated to the San Antonio river;

For Ferry Lake, from the Louisiana line to Jefferson, twelve thousand dollars;

For Cypress Bayou, from Jefferson to Watson's Ferry, two thousand dollars;

For Little Cypress, two thousand dollars;

For Sulphur Fork of Red Rive, eight thousand dollars;

For Jim's Bayou, one thousand dollars;

That the sum of seventeen thousand dollars be, and the same is hereby appropriated to Red River;

That the sum of four thousand dollars be, and the same is hereby appropriated to Buffalo Bayou.

That the sum of four thousand dollars be, and the same is hereby appropriated to the San Jacinto river;

That the sum of three thousand dollars be, and the same is hereby appropriated to the San Bernard river;

That the sum of three thousand dollars be, and the same is hereby appropriated for the Lavaca and Navidad rivers;

That the sum of five thousand dollars be, and the same is hereby appropriated for the Nueces river; and,

For the Mission and the bay at its mouth, the sum of three thousand dollars.

Sec. 2. That a board of Internal Improvements, consisting of three members, shall be elected for each of the following rivers: Sabine, Trinity, Brazos, Colorado, San Jacinto, San Bernard, Navidad, Sulphur Fork of Red River and Nueces; and one board, consisting of three members, shall be elected

for the Neches and Angelina rivers; and a board, consisting of three members shall be elected for the San Antonio, and one for the Guadalupe; and a board, consisting of three members, shall be elected for Ferry Lake and Cypress Bayou and Jim's Bayou; and a board, consisting of three members, shall be elected for the Mission river and the bay at its mouth, which said boards shall be elected by both Houses of the Legislature, in joint session; and each member of said boards, before entering on the duties of his office, shall enter into bond, with sufficient security, in the sum of ten thousand dollars, payable to the Governor and his successors in office, for the faithful discharge of the duties which may be assigned them, which said bond shall be approved by the Governor and filed with the Secretary of State, upon which suit may be brought, from time to time, and not to be void upon the first recovery, for a forfeiture thereof; and each member shall also take and subscribe the following oath, before any person legally authorized to administer the same: "I do hereby solemnly swear, (or affirm, as the case may be), that I will well and truly discharge all the duties as a member of the board of Internal Improvements to which I have been elected, which may be imposed upon me, by the Legislature, from time to time;" and said members of the board shall receive two dollars per day for each and every day they may be necessarily engaged in the discharge of their duties.

Sec. 3. That the several boards shall lay off the work to be done in sections of convenient size, let out the work to the lowest bidder, who shall enter into bond in double the amount of his bid, for the faithful performance of his work, with securities to be approved by the board; they shall superintend the work, and see that it is done in conformity with the contracts, but neither of them shall either directly or indirectly be interested in any bid or contract.

Sec. 4. That the said respective boards shall elect one of their number President of the same, who shall preside at all the meetings of the board, should he be present; and he shall have the power to convene the board, with the concurrence of one other member, whenever he may deem it necessary to do so; and two members of said board shall constitute a quorum for the transaction of business; and the said board shall keep a record of their proceedings touching all their transactions in the discharge of their duties, a copy of which shall be by them transmitted, once in every three months, to the Governor, for his inspection, and which shall by him be filed in the office of

the Secretary of State, for the inspection of all who may desire to see it; and the said board shall, from time to time, draw drafts on the Treasury, in favor of the contractor, for such sums as they may think necessary and proper, to enable such contractor to progress with his work: Provided, That in no case shall they draw for more than two-thirds of the work actually done and performed, until the whole of the contract shall have been completed.

Sec. 5. That all the proceedings of the respective boards touching their duties, shall be by them laid before the next session of the Legislature, after they are had; also, all the proceedings of the Governor, touching his duties and transactions with the said boards, shall be by him laid before the next session of the Legislature, after they are had; and in the case of a vacancy in the board during the recess of the Legislature, it shall be filled by the two remaining members of the board, should there be two remaining members, which appointment shall be in force until the meeting of the next Legislature; and in the event that there shall be at any time only one member of the board, or no member of the board, it shall be the duty of the Governor to fill the vacancy or vacancies, which appointments shall, in like manner, continue in office until the next session of the Legislature.

Sec. 6. That each member of the board may make out his account, every three months, for his services, which shall be signed by each member of the board, and submitted to the Governor for his approval, and if by him approved, the Treasurer shall pay the same; but should the Governor disapprove the same, he shall return it to the said board with his reasons for his disapproval.

Sec. 7. That the Governor shall cause this act to be submitted to the qualified electors, at the next general election to be held in August next; and if there are more votes cast in favor of than against the adoption of this act, then it shall take effect and be in force, and not otherwise.

Approved, February 7, 1853.

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#### CHAPTER XIV.

##### An Act to give the right of appeal in cases on Habeas Corpus.

Section 1. Be it enacted by the Legislature of the State of Texas. That the judgment of a Supreme or District Judge on

Habeas Corpus entered of record, shall be conclusive, unless reversed on appeal; and no person remanded by such judgment to custody while the same continues in force, shall be at liberty to obtain another Habeas Corpus for the same cause, or by any other proceeding to bring the same matter again in question, unless by appeal to the Supreme Court, under the regulations made for such appeal in criminal cases, which appeal any party aggrieved by such judgment may prosecute.

Sec. 2. The ninth section of an act to prescribe the method of proceeding to obtain the benefit of the writ of Habeas Corpus of January 14, 1840, is hereby repealed

Approved, February 5, 1853.

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## CHAPTER XV.

### JOINT RESOLUTION

Instructing our Senators and requesting our Representatives in Congress, to call the attention of the Government of the United States to the necessity for a further treaty with the Republic of Mexico.

Section 1. Be it resolved by the Legislature of the State of Texas, That our Senators be instructed and our Representatives in Congress be requested, to call the attention of the Government of the United States to the necessity now existing for a further treaty with the Republic of Mexico, and that they urge our Government to make a treaty restoring to the citizens of the United States, all slaves belonging to them and which now are within the said Republic, as well as all which may hereafter escape thereto; and, also, for the prompt restoration of any other property of American citizens which may have been carried or taken against the will of the respective owners thereof into the said Republic.

Sec. 2. That a copy of these Resolutions be forwarded to each of our Senators and Representatives in Congress.

Approved, February 7, 1853.

## CHAPTER XVI.

## An Act to regulate the election of District Surveyors.

Section 1. Be it enacted by the Legislature of the State of Texas, That whenever an election is held in any land district in this State, for District Surveyor of such district, and the same shall be composed entirely of one county, the returns of said election shall be made to the chief-justice of such counties, in the same manner as returns are now by law required to be made for county officers, and such chief-justices shall in the same manner as in other cases of election, examine such returns and issue certificates of election; but when such land districts embrace more than one county, then the return of the votes given in such elections shall be made to the chief-justices of those counties in which such votes are given, in the same manner as now provided for county officers, and the several chief-justices to whom such returns are made, shall open and examine the same on the tenth day, exclusive of the day of election, and shall immediately certify and send the result of said election to the chief-justice of that county from which the land district takes its name, which certificate shall be sealed up and the name of the officer forwarding it written across the seal, and the package marked on the outside "election returns;" which package may be sent by mail: the chief-justices to whom the certificates are so forwarded shall, upon the twentieth day after the election, which shall be the return day for such elections, open and examine said certificates, together with the returns of said election, made from his own county, and after estimating the result and recording the same, give a certificate of election to the candidate or person for whom the greatest number of votes shall have been polled.

Sec. 2. That whenever a vacancy shall occur in the office of District Surveyor, for any land district in this State, and such district be composed entirely of one county, it shall be the duty of the chief-justice of such county to order an election to fill such vacancy, in the same manner as now provided for county officers; but when such land district shall embrace more than one county, then it shall be the duty of the chief-justice of the mother county, or that from which the land district takes its name, to issue a notice to the chief justices of those counties which are embraced in whole or in part in such land district, which notice may be sent by mail, shall set forth the vacancy and office to be filled, and shall name the day on which said

election is to be held, and such day shall be uniform throughout said district, and shall not be less than twenty days after the issuance of such notice. Immediately on the receipt of such notice, the chief-justice to whom the same shall be directed, shall issue orders of election, and notice thereof shall be given in the same manner as provided now for county officers.

Sec. 3. That whenever the election of any person to the office of district surveyor may be contested, like notice shall be given and proceedings had as in case of contested elections for county officers.

When the district is composed of one county, the county Court of that county shall be the proper tribunal to try the contest; but where the district is composed of more than one county, then such contest shall be tried in the County Court of the mother county.

Approved, February 7, 1853.

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## CHAPTER XVII.

### AN ACT

Explanatory of An Act entitled an Act for the relief of certain persons formerly prisoners in Mexico, approved February 9th, 1850.

Section 1. Be it enacted by the Legislature of the State of Texas, That the intent of said act was to pay alike all who were taken prisoners, killed or died while under enlistment in said expedition.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved, February 7, 1853.

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## CHAPTER XVIII.

### AN ACT

To define the time of holding the District Courts in the Tenth Judicial District.

Section 1. Be it enacted by the Legislature of the State of

Texas, That the District Court shall be held in each county in the tenth judicial district as follows, to wit:

In the county of Victoria on the first Mondays in March and September, and may continue in session two weeks.

In the county of Calhoun on the second Mondays after the first Mondays in March and September, and may continue in session two weeks.

In the county of Jackson on the fourth Mondays after the first Mondays in March and September, and may continue in session one week.

In the county of Lavaca on the fifth Mondays after the first Mondays in March and September, and may continue in session two weeks.

In the county of Gonzales on the seventh Mondays after the first Mondays in March and September, and may continue in session two weeks.

In the county of De Witt on the ninth Mondays after the first Mondays in March and September, and may continue in session two weeks.

In the county of Goliad on the eleventh Mondays after the first Mondays in March and September, and may continue in session two weeks, or until the business is disposed of.

Sec. 2. That all process in said counties shall be made returnable in conformity with the provisions of this act.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved, February 7, 1853.

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## CHAPTER XIX.

### AN ACT

Relating to lost Certificates of Public Debt of the late Republic of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That in case of the loss of any certificate, issued by the Auditor and Comptroller of the State of Texas, under the provisions of an act entitled "An Act to provide for ascertaining the debt of the late Republic of Texas," approved March 20th, 1848, and an act entitled "An Act to provide for ascertaining the debt of the late Republic of Texas," approved



February 8th, 1850, for which appropriations have heretofore been made, upon the grantee or assignee of any such lost certificate making oath before any Notary Public, properly certified, to the fact of its loss, and filing with the Treasurer of the State a bond in double the amount of such certificate, with two or more good and sufficient securities, to be approved by said Treasurer, conditioned for the return of the amount of money paid, or to be paid, on such certificate; it shall at any time appear that any other person is the proper owner or holder of such certificate, which said bond may be put in suit by any person interested, or having right in said certificate, in the county wherein the seat of Government is situated, in the District Court of said county, it shall be the duty of said Treasurer to pay to such person the amount of money called for by said certificate. And in the event of the loss of a certificate of Public Debt, for the payment of which no appropriation has been made, the Auditor and Comptroller are hereby authorized to issue a duplicate thereof, upon the party claiming filing the same proof and security, as required by this act to be filed with the Treasurer and Comptroller, and complying with all the provisions of this act, which duplicates when so issued, shall have all the force and effect of the original.

Sec. 2. That any one falsely swearing in such case, shall be liable to be presented by indictment, before the District Court of the said county in which the seat of Government is situated, and upon conviction shall be liable to all the pains and penalties of perjury.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved, February 7, 1853.

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## CHAPTER XX.

### An Act to create the Thirteenth Judicial District.

Section 1. Be it enacted by the Legislature of the State of Texas, That the following counties shall constitute the Thirteenth Judicial District, viz: Brazos, Robertson, Leon, Navarro, Madison, Limestone, Freestone and Falls.

Sec. 2. That this act shall take effect from and after its passage.

Approved, February 5, 1853.

## CHAPTER XXI.

An Act Supplementary to an Act relating to lands in Peters' Colony, approved February 10th, 1852.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Landoffice be, and he is hereby authorized and required to issue patents to all Colonists of Peters' Colony, or their assigns, who have made, or may hereafter make their locations by virtue of their colonial headright certificates, and return the same to the General Landoffice, in the same manner as prescribed by the fourth section of the act to which this is a supplement, for filing with the agent of the Company so soon as the maps of said Company shall be furnished to the Commissioner of the General Landoffice, showing the land the Colonist claims, and the same is found not to conflict with legal surveys previously made; and until patents are issued, all locations by the Company's surveys shall be sufficient to maintain an action of trespass to try title.

Sec. 2. That the Colonists of Peters' Colony who have not made their locations and files, as provided for in the fourth section of the act to which this is a supplement, shall have three months longer time and preference over said Company in which to make their locations; and it shall be lawful for said Colonists to claim by the lines and corners of said Company's surveys, or by the map and field-notes of their respective District or County surveyor, correctly made out in conformity with the land laws of Texas; which claim or entry, or the field-notes of the District Surveyor shall be filed in the General Landoffice, upon which the Commissioner of the General Landoffice is authorized and required to issue patents not to conflict with legal surveys previously made.

Sec. 3. That neither this act, nor the act to which this is supplemental, shall interfere with any locations or surveys legally made in any part of said Colony since the first day of July, 1848, and prior to the tenth day of February, 1852, which had not been sectionized by the contractors of said Colony.—The maps and records relating to the lands in Peters' Colony, now remaining with the Trustees or Agent of said Texas Emigration Land Company, shall be deposited with the Commissioner of the General Landoffice and constitute a part of the records and archives of said office, subject to the general laws governing the same.

Sec. 4. That so soon as the legally authorized Trustee or Agent of said Company shall file in the General Landoffice a map of all the surveys made by them in said Colony, and an unqualified release to the State of all their interests whatsoever in and to any and all the sections, half sections, fractional sections, and alternate sections, that is or may be owned, located, claimed or settled upon by any Colonists of said Colony or their assigns, by virtue of Ward's certificates, or certificates of the County Courts by virtue of the tenth section of the act to which this is a supplement, they shall have power and authority to locate the lands to which they are entitled, by virtue of the act to which this is a supplement, in said Colony; and when located, shall be patented by the Commissioner of the General Landoffice; provided, they do not conflict with any location or claim of said Colonist, or other legal locations in said Colony; and upon their filing said release, the Commissioner of the General Landoffice is hereby required to make out and furnish to the Agent of said Company quarterly, and as fast as the returns of the Colonists are made in his office, a map of all the locations made by said Colonists at the expense of the Company.

Sec. 5. That so much of the act to which this is a supplement, as conflicts with the provisions of this act, be and the same is hereby repealed, and this act take effect from and after its passage.

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## CHAPTER XXII.

### AN ACT

To erect the counties of Cameron, Hidalgo, Starr, Webb, Nueces, San Patricio, and Presidio and El Paso, into separate land districts.

Section 1. Be it enacted by the Legislature of the State of Texas, That the territories embraced in each of the said counties of Cameron, Hidalgo, Starr, Webb, Nueces, San Patricio and Presidio and El Paso, shall constitute and are hereby erected into separate land districts, to be called respectively the land district of Cameron, of Hidalgo, of Starr, of Webb, of Nueces, of San Patricio, and of Presidio and El Paso.

1       Section 2. That there shall be elected by the qualified electors of each land district created by this act, on the first Monday in Agust, A. D. 1853, and every two years thereafter, one district surveyor for each land district named and created in this act, whose term of office shall be two years from the date of his election, who shall qualify and discharge the duties of the said office in accordance with the law now in force concerning district surveyors in other districts, and be subject to the same penalties for a violation thereof. There shall be given at least ten days notice of said elections, and in case of a vacancy in said office, the chief-justice of the county in which such vacancy occurs shall order an election for the unexpired term of said office.

Sec. 3. That the district surveyor of the district of Cameron, shall keep his office at Brownsville. The district surveyor of Hidalgo shall keep his office at Edinburg. The district surveyor of the district of Starr shall keep his office at Rio Grande city. The district surveyor of the district of Nueces, shall keep his office at the town of Corpus Christi. The district surveyor of the district of San Patricio shall keep his office at the town of San Patricio. The district surveyor of the district of Webb shall keep his office at Laredo, and the district surveyor of the district of Presidio and El Paso, shall keep his office at the town of San Elizario, provided; that nothing in this act shall invalidate legal locations or surveys heretofore made in Bexar or San Patricio. And it shall be the duty of all the surveyors to be elected under this act, to apply at San Antonio and Corpus Christi for all certificates and accompanying locations for lands in their respective counties made at San Antonio and at Corpus Christi respectively.

Sec. 4. That "an act to create the counties of Cameron, Hidalgo, Starr, Webb, Presidio and El Paso into separate land districts," approved February 16, 1852, be, and the same is hereby repealed, and that this act take effect and be in force from and after its passage.

Approved, February 7, 1853.

CHAPTER XXIII.

AN ACT

Supplementary to "An Act granting to settlers on public domain pre-emption privileges," approved, January 22d, 1845.

Section 1. Be it enacted by the Legislature of the State of Texas, That the provisions of the above recited act, be so modified as to read as follows, to wit:

That each and every settler who have availed themselves of the provisions of said law, upon any of the public domain of the State, shall be entitled, not to exceed three hundred and twenty acres of land, upon the conditions and restrictions hereinafter set forth.

Sec. 2. That to entitle any settler to a patent not to exceed three hundred and twenty acres of land, he must produce a certificate from the clerk of the county court wherein he resides, that he or his assigns has resided upon and cultivated the same for the space of three years, and complied fully with the provisions of an act to which this is a supplement.

Sec. 3. That each and every settler or applicant, at the time he applies for a patent, not to exceed three hundred and twenty acres, shall pay to the Commissioner of the General Landoffice the usual fees, and additional sum of twenty dollars for the use and benefit of the State, for every patent thus issued.

Sec. 4. That each and every patent issued under the provisions of this act, for any less number than three hundred and twenty acres, shall pay the usual fees, and ten dollars for each and every patent so issued.

Sec. 5. That to entitle the party to a certificate from the County Clerk of the County Court, he must prove by two respectable citizens, known to the County Clerk, that he has fully complied with the provisions of this act.

Sec. 6. That all laws and parts of laws that conflict with the provisions of this act, be and the same are hereby repealed, and that this act take effect and be in force from and after its passage.

Approved, February 7. 1853.

## CHAPTER XXIV.

An Act relating to the Fiscal Affairs of the late Republic of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That it shall be the duty of the Comptroller of Public Accounts, as soon as practicable, to prepare a statement of the accounts of such of the collectors of public revenue of the late Republic, as appear by the books of his office to be unsettled, and transmit the same for collection to the District Attorney of the District wherein such collector resided or exercised the functions of his office at the time such indebtedness was incurred.

Sec. 2. That the several District Attorneys shall have power and authority in all cases where a receiver of public moneys as aforesaid shall be in arrears to the late Republic, and is unable to settle the account with which he is charged, to grant an extension of time to such officer for the payment of such amount; provided, that such officer shall secure the State by bond, payable to the State of Texas, with three or more securities to the satisfaction of the District Attorney charged with the collection of the amount, in double the sum of such officer's liability, and in case the amount found to be due by said officer, with eight per cent. interest per annum, at the time stipulated in said bond, which shall not exceed three years from the date of settlement, the same shall be placed in the hands of the Attorney General, whose duty it shall be to cause the necessary legal steps to be taken for the recovery of the amount actually due the State, with interest as aforesaid, from the date of the settlement to that of recovery, and all costs, damages and other expenses incurred in the prosecution of such suit.

Sec. 3. That when any officer as aforesaid shall have rendered service, purchased supplies, or advanced money for the use and benefit of the late Republic of Texas, under the sanction of the law, the District Attorney shall authorized in such events to allow the same as a credit in settlement, retaining proper vouchers therefor, which claim or claims shall be filed by said Attorney in the office of Comptroller of Public Accounts; provided, that no allowance shall be made for any claim or account where the services rendered, advances made or supplies furnished, were by any other person or persons than the officer himself who presents them as offsets to his indebtedness; provided, that no amount shall be allowed as an offset as

provided for in this section, until the same shall have been approved by the Comptroller.

**Sec. 4.** That said District Attorneys in settling with the sheriffs as ex-officio tax collectors, shall be authorized to make allowances for insolvent and delinquent tax payers, requiring the officer claiming such credit to verify under oath the correctness of the same.

**Sec. 5.** That whenever said District Attorneys are unable to settle with any revenue officer of the late Republic as aforesaid, they shall immediately institute suit against said officer for the recovery of the amount due, as shown by the account furnished by the Comptroller; and in all cases where suits are commenced against a defaulting officer, after having been called upon to settle by the District Attorney, the right of said official to plead offsets as provided for in a preceding section of this act, or any other benefits by this act extended, shall be by said officer forfeited.

**Sec. 6.** That in all cases of delinquences, where suit has or shall be instituted against a collector of public revenue, a certificate from the books of the Comptroller, duly certified to by him and authenticated under the seal of his office, stating the amount due, shall be admitted as evidence, and the court trying the cause may grant judgment and award execution accordingly. When suit is brought upon a bond or other sealed instrument, and the defendant shall plead non est factum, upon motion to the court, such plea or motion being verified by the oath or affirmation of the defendant, the court may take the same into consideration, and if it shall appear to be necessary to the attainment of justice, may require the production of the original bond, or other paper specified in such affidavit; when a receiver of public moneys as aforesaid, shall have allowed interest on any public liability issued to bear interest, the amount of interest so allowed by said officer to the party from whom he received such security, shall be allowed to him, the officer, as a credit in settlement.

**Sec. 7.** That when any officer as aforesaid, or any person is indebted in the treasury notes of the late Republic of Texas, it shall be lawful for him to discharge said indebtedness by the payment of twenty-cents in gold or silver for every dollar such officer or person is indebted in the Treasury notes aforesaid, either to the District Attorney of the District in which he resides, or at the Treasurer's office in the city of Austin.

**Sec. 8.** That the several District Attorneys shall report and pay over the amounts by them collected to the Comptroller

at least every six months, or oftener if said Comptroller shall require it, and it shall be the duty of the said Comptroller to furnish such instructions to the said District Attorneys as may tend to carry out efficiently the intention of this act.

Sec. 9. That the said District Attorneys shall receive as compensation under this act, ten per cent. on the amount by them collected by suit, and five per cent. on amount by them arranged, and the said District Attorneys' interest shall be in the debts according to the manner of settling them.

Sec. 10. That the act approved February 11th, 1850, to provide for the settlement of the Fiscal Affairs of the late Republic of Texas, be and the same is hereby repealed, and this act shall take effect and be in force from and after its passage.

Approved, February 7, 1853.

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## CHAPTER XXV.

### AN ACT

Supplementary to An Act entitled "An Act to restore lands sold for taxes and purchased by the State, to the former owners, approved January 28th, 1852.

Section 1. Be it enacted by the Legislature of the State of Texas, That the time allowed to former owners of land sold for taxes, to discharge their liability, and have said lands restored to them, by the act to which this is a supplement, be, and the same is hereby extended to the first day of January, eighteen hundred and fifty-four, and all such lands are hereby restored to the said former owners, upon their complying with the terms prescribed in the act to which this is a supplement.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved, February 7, 1853.



CHAPTER XXVI.

AN ACT

To create the County of Hill.

Section 1. Be it enacted by the Legislature of the State of Texas, That all the territory comprised in the following limits, to wit: beginning on the south-west line of Ellis county, at a point twenty-two miles from its west corner; thence with the south-west line of said county of Ellis to its south corner; thence to the extreme north corner of Limestone county; thence with the boundaries of Limestone and McLennan counties, as now defined, to the Brazos river; thence up that river, with its meanders, to a point south seventy five degrees west from the place of beginning, thence north, seventy-five degrees east, to the beginning, be and the same is hereby constituted a new county, by the name of the county of Hill.

Sec. 2. That the chief-justice of Navarro county shall, within six months after the passage of this act, order an election for four commissioners and a chief-justice, one sheriff and one clerk of the county court, which election shall be advertized at three public places in said county, stating the time and place, which shall be at some suitable place nearest the centre of said county, and shall be conducted in all other respects, in accordance with the general laws governing elections; and it shall be the duty of said chief-justice of Navarro county, to qualify said officers of said county when elected, and organize said new county in accordance with an act to provide for organizing new counties, approved March the 20th, 1848.

Sec. 3. That it shall be the duty of the county court of said new county, so soon as they are duly qualified, to proceed to locate the county-seat of said county, by selecting at least three eligible sites, not exceeding five miles from the centre of said county, having respect for any donation of land that may be made for that purpose, and when so selected the chief-justice shall order an election, which shall be conducted according to the general laws governing elections for county officers; and if at the first election neither of the sites so selected shall receive a majority of all the votes cast, the place receiving the smallest number of votes shall be thrown out; and the chief-justice shall order another election as before, and so continue to do, throwing out the site receiving the smallest number of votes, until some one of the sites selected shall receive a major-

rity of all the votes cast, which shall be declared the county-seat of said county, and be called Hillsborough.

Sec. 4. That the county court of said county shall have power to purchase, if necessary, three hundred and twenty acres of land for the use of the county, and shall lay the same off into suitable lots for a town; and after selecting and setting apart such suitable lots as may be necessary for a court-house, jail, clerk's offices, churches, school-houses and burying ground, they shall proceed to sell the remainder or such portion thereof as they may deem necessary, at public auction, at such time and upon such terms as will most conduce to the interest of said county, and shall apply the proceeds thereof to the erection of necessary public buildings for the use of said county.

Sec. 5. That the chief-justice of Navarro county shall be entitled to two dollars per day for every day he is employed or detained in holding said elections and organizing said county.

Sec. 6. That all that territory situated north of the county hereby created, and which was heretofore included within the limits of Navarro county, be attached to and form a part of the territorial limits of the said new county; and for all county and general purposes shall form a part of the same after the organization of the same, and the location of the seat of justice thereof; and the county hereby created shall be attached to and form a part of the thirteenth judicial district.

Sec. 7. That this act take effect and be in force from and after its passage.

Approved, February 7, 1853.

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## CHAPTER XXVII.

### Joint Resolution concerning the Public Archives of Bexar County.

Whereas, there are in the office of the County Clerk of Bexar, records written in the Spanish language, which are of great historical value, extending over a period of more than a century, and which should be translated into the English language, and such translation filed in the office of Secretary of State, for future use; therefore,

Section 1. Be it resolved by the Legislature of the State of Texas. That the Governor be authorised to employ some

suitable person or persons to translate and arrange all such Spanish documents of historical value to be found among said archives, of a date anterior to the evacuation of San Antonio by the Mexican troops in 1836, and file said translation in the Department of State, for future use, and the sum of one thousand dollars, or so much thereof as may be necessary, is hereby appropriated to pay for the same.

Approved, February 7, 1853.

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## CHAPTER XXVIII.

Joint Resolution relating to the Volunteers called into the service by the Governor.

Whereas, in the opinion of the Governor of this State, emergencies have existed which required the services of the citizen soldiers of the State during the past summer, on a portion of the Rio Grande; and whereas, the Governor, to meet such emergency, has called into service the companies commanded respectively by Captains Shaw, Lewis and Davis; and whereas, the services of the said companies have not been recognized by the Government of the United States, and that the United States should not hesitate to re-imburse the State the amount thus paid; therefore,

Sec. 1. Be it resolved by the Legislature of the State of Texas, That it shall be the duty of the Governor, upon a final settlement being made between the State and the companies above mentioned, to forward the evidences of such settlement to the President of the United States, with the request that he will take such measures as will tend to the speedy re-imbursement of the State.

Sec. 2. That our Senators and Representatives in the Congress of the United States, be requested to urge the passage of an appropriation at the earliest moment for the re-imbursement of the State of the amount thus paid.

Sec. 3. That the Governor be requested to forward a copy of this Joint Resolution to each of our Senators and Representatives in the Congress of the United States.

Approved, February 7, 1853.

## CHAPTER XXIX.

## AN ACT

To limit the Boards of Land Commissioners, and more clearly to define their duties.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Boards of Land Commissioners of the different counties of the State shall continue to issue unconditional certificates until the thirty-first day of December, 1853, to such original grantees of conditional certificates as shall appear in person before any of said Boards, take the oath and make all the other proof now required by law.

Sec. 2. That any person applying for an unconditional certificate under the provisions of this act, shall make application for the same either in the county where the original conditional was issued, or in the county in which the applicant shall reside at the time of his application.

Sec. 3. That the Boards of Land Commissioners are hereby prohibited from issuing an unconditional certificate to any person who shall not fully comply with the first and second sections of this act, and the individual members of any Board of Land Commissioners who shall concur in issuing any certificate contrary to the provisions of this act, shall be deemed guilty of a high misdemeanor, and upon conviction thereof, before any Court of competent jurisdiction, shall be fined in a sum not less than five hundred nor more than one thousand dollars for each and every such offence, and shall be dismissed from office; and the Boards of Land Commissioners before issuing any such unconditional certificate, shall cause public notice to be given at the expense of the claimant, setting forth the object of the application of the claimants.

Sec. 4. That from and after the 31st December, 1853, the functions of the various Boards of Land Commissioners of the State shall cease.

Sec. 5. That all laws and parts of laws contravening the provisions of this act, are hereby repealed; and that this act take effect and be in force from and after its passage.

Approved, February 7. 1853.

CHAPTER XXX.

AN ACT

To provide for the erection of a fire-proof building, for a Treasury Department and Comptroller's Office of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of twenty thousand dollars be, and the same is hereby set apart out of any money in the Treasury of the State not otherwise appropriated, to be expended in the erection of a fire-proof building on the north-east corner of capitol square in the city of Austin, for a Treasury Department and Comptroller's Office, which said fire-proof building shall, as near as practicable, in its appearance, plan and style of architecture, conform to that of the General Land Office: Provided, That no part of the foregoing appropriation shall be drawn from the Treasury until the amount thereof shall have been realized from the sale of city lots, as provided for in this act, over and above the cost of sales and collections.

Sec. 2. That the Treasurer and Comptroller of Public Accounts of the State act as Commissioners for the erection of said fire-proof building; and shall, at the earliest practicable period after the passage of this act, determine the plan of said fire-proof building, and cause an advertisement to be inserted in one of the public newspapers printed in the city of Austin, for three successive weeks, and let out, to the lowest bidder, in the said city of Austin, on a day to be fixed in said advertisement, the building of said fire-proof house, in one or more contracts, as shall seem to them best, requiring the said contractor or contractors to enter into bonds, with two or more good and sufficient securities, to be approved by them, in double the amount of their respective contracts, conditioned for the faithful performance of the same, within the time prescribed in said contract or contracts, not beyond the first day of July, eighteen hundred and fifty-four, which said bonds shall be made payable to the State of Texas, and shall be filed in the Comptroller's Office, and may be put in suit against the obligors whenever the conditions of the same shall have been violated.

Sec. 3. That the Comptroller and Treasurer shall give bond and security, in the sum of twenty thousand dollars, for the faithful discharge of their duties under this act.

Sec. 4. That the said Commissioners shall have the power

to aid the several contractors to facilitate the execution of their said contracts, by paying to them such sums of money as may be necessary for that purpose, in no case going beyond the amount of work actually done, or material furnished by them, the said contractors.

Sec. 5. That said Commissioners present to the next regular session of the Legislature, a full report of the expenditures under this act, with the progress of the work, and such other items touching the erection of said building as may be necessary for its information.

Sec. 6. That the money disbursed from the Treasury under the provisions of this act, shall be charged against the unsold lots and outlots in the city of Austin, and reimbursed to the Treasury out of the sale of the same; and the Comptroller is hereby required to make sale of a sufficient number of lots, from time to time, as shall be sufficient to carry into effect the intent of this section.

Sec. 7. That this act take effect from its passage.

Approved, February 7, 1853.

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## CHAPTER XXXI.

### AN ACT

Supplementary to an Act entitled an Act to provide for the erection of a State Capitol, approved February 14th, 1852.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of fifty thousand dollars be, and the same is hereby appropriated in addition to the amount appropriated by the act to which this is a supplement, to be employed by the Commissioners elected under said act, in providing for changing the original interior plan of said State Capitol, so as to provide a Supreme Court room, thirty by sixty feet, to be taken off of one of the two principal rooms of the upper story, and to meet the expenses of such other changes as have been made in the style and architecture of said building, from the contract entered into with Messrs. McGehee & Moore on the            day of           , and for any other work which may be necessary to be done on said building.

Sec. 2. That the said sum of fifty thousand dollars shall be

paid by the Treasurer of the State out of any money in the State Treasury not otherwise appropriated, upon the draft of said Commissioners as provided for in the act to which this is a supplement, provided, that no part of this appropriation shall be drawn until the contractors for the erection of the Capitol enter into a new bond, with ample security, for the faithful compliance with their contract, under the new plan adopted, and that no further appropriation shall be made for any extra work or change of plan.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved, February 7, 1853.

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## CHAPTER XXXII.

### AN ACT

To amend an Act entitled "An Act authorizing the County Court of El Paso county to appoint the place of holding the District Courts in said county, and defining the time of holding the District Courts in the Eleventh Judicial District," approved December 24th, 1851.

Section 1. Be it enacted by the Legislature of the State of Texas, That the second section of the act to which this act is amendatory, be, and the same is hereby amended, so as to read as follows:

That the District Courts of the Eleventh Judicial District shall commence in the county of El Paso, on the third Monday of April, and on the first Monday of September in each year, and may continue in session as long as the business may require.

Section 2. That all laws and parts of laws conflicting with the provisions of this act, be and the same are hereby repealed, and that this act take effect and be in force from and after its passage.

Approved, February 7, 1853.

## CHAPTER XXXIII.

## AN ACT

To define the times of holding the District Courts in the Third and Thirteenth Judicial Districts.

Section 1. Be it enacted by the Legislature of the State of Texas, That the District Courts in the Third Judicial District, shall commence in the county of Washington on the first Mondays in April and October, and may continue in session four weeks.

In the county of Burleson on the fourth Mondays after the first Mondays in April and October, and may continue in session one week.

In the county of Milam on the fifth Mondays after the first Mondays in April and October, and may continue in session one week.

In the county of McLennan, on the sixth Mondays after the first Mondays in April and October, and may continue in session one week.

In the county of Bell, on the seventh Mondays after the first Mondays in April and October, and may continue in session one week.

In the county of \_\_\_\_\_, on the eighth Mondays after the first Mondays in April and October, and may continue in session one week.

The county of Williamson shall be included in the Third Judicial District, and the District Courts shall be held in Williamson county on the twelfth Mondays after the first Mondays in March and September, and may continue in session two weeks.

Sec. 2. That all laws and parts of laws, heretofore enacted, relating to the time of holding the several Courts in said Third Judicial District be, and the same are hereby repealed; and that all process which has been issued, and made returnable to the several Courts of said District, shall be, and are hereby made returnable to the said Courts respectively, at the periods of their sessions, as specified in this act; and that all recognizances and bonds entered into by any person or persons in said Courts, with reference to the period of their respective sessions, under the laws heretofore in force, shall be, and the same are hereby made obligatory upon the parties, with reference to terms of said Courts respectively, as prescribed by this act.

Sec. 3. That the Spring terms for the year 1853, of the Dis-



trict Court, held in the Thirteenth Judicial District, shall be held as are herein provided, to wit:

In Leon county, on the first Monday in May, and may continue in session two weeks.

In Madison county, on the third Monday in May, and may continue in session one week.

In Brazos county, on the fourth Monday in May, and may continue in session one week.

In Robertson county, on the first Monday after the fourth Monday in May, and may continue in session one week.

In Falls county, on the second Monday after the fourth Monday in May, and may continue in session one week.

In Limestone county, on the third Monday after the fourth Monday in May, and may continue in session one week.

In freestone county, on the fourth Monday after the fourth Monday in May, and may continue in session one week.

In Navarro county, on the fifth Monday after the fourth Monday in May, and may continue in session two weeks.

In Hill county, on the seventh Monday after the fourth Monday in May, and may continue in session until the business of the Court is disposed of.

Sec. 4. That the terms of the District Court of the aforesaid District, shall, after the provisions of the second section of this act, be held as follows, to wit:

In Leon county, on the first Mondays in April and October, and may continue in session two weeks.

In Madison county, on the third Mondays in April and October, and may continue in session one week.

In Brazos county, on the fourth Mondays of April and October, and may continue in session one week.

In Robertson county, on the first Mondays after the fourth Mondays in April and October, and may continue in session one week.

In Falls county, on the second Mondays after the fourth Mondays in April and October, and may continue in session one week.

In Limestone county, on the third Mondays after the fourth Mondays in April and October, and may continue in session one week.

In Freestone county, on the fourth Mondays after the fourth Mondays of April and October, and may continue in session one week.

In Navarro county, on the fifth Mondays after the fourth

Mondays in April and October, and may continue in session two weeks.

In Hill county, on the seventh Mondays after the fourth Mondays in April and October, and may continue in session until the business of the session is disposed of.

Sec. 5. That all writs and process that have been, or may hereafter be issued from any of the District Courts of the Third Judicial District, embraced in the Thirteenth Judicial District, shall be considered as returnable, and shall be returned to the terms as established by this act, and shall have the same force and effect as if the same had originally been so returnable; and that all laws conflicting with the provisions of this act, be, and the same are hereby repealed.

Sec. 6. That this act shall take effect and be in force from and after its passage.

Approved, February 7, 1853.

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## CHAPTER XXXIV.

### AN ACT

Supplementary to an Act entitled An Act authorizing the issuing of duplicate Land Warrants, Discharges and Headrights, on certain conditions, and providing for the loss of Land Scrip.

Section 1. Be it enacted by the Legislature of the State of Texas, That any person who has lost, or who may hereafter lose Land Scrip be, and they are hereby included in the act authorizing the issuing of duplicate land warrants, discharges and headrights on certain conditions, approved January 14th, 1840, by complying with the conditions specified in the same; provided, that the owner of said land scrip or claim, shall, previous to applying for a duplicate of the same, cause the publication required by said act to be made for sixty days, in some newspaper in the State of Texas.

Sec. 2. That the provisions of said act to which this is a supplement, shall apply and be in force in all cases as to the parties applying for and obtaining under this act such duplicate land scrip.

Sec. 3. That when headright certificates, land scrip, land warrants, discharges or other claims to land owned by two or more parties may be lost, it shall be lawful for the parties owning the same, to make jointly or severally the affidavit required by the third section of the act to which this is a supplement.

Sec. 4. That this act take effect and be in force from and after its passage.

Approved, February 7, 1853.

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## CHAPTER XXXV.

### AN ACT

Granting the use of certain portions of Galveston Bay, to the Galveston Dry Dock company.

Section 1. Be it enacted by the Legislature of the State of Texas, That the right of so much of the Bay opposite the city of Galveston, on the North side of the Channel, as may be necessary for the erection of a Dry Dock, and the other necessary buildings and convenience be, and the same is hereby granted to the Galveston Dry Dock Company; provided, that said company shall not injure or unreasonably obstruct the Channel, Harbor, or anchorage of said Bay.

Sec. 2. That this act shall take effect from and after its passage.

Approved, February 7, 1853.

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## CHAPTER XXXVI.

### AN ACT

To define the time of holding the District Courts in the Ninth Judicial District.

Section 1. Be it enacted by the Legislature of the State of Texas, That the District Court in the Ninth Judicial District

of this State, shall be held in the several counties composing the same, at the times herein specified, to wit:

In the county of Houston, on the first Mondays in March and September, and may continue in session two weeks.

In the county of Anderson, on the third Mondays in March and September, and may continue in session two weeks.

In the county of Henderson, on the first Mondays after the fourth Mondays in March and September, and may continue in session one week.

In the county of Van Zandt, on the second Mondays after the fourth Mondays in March and September, and may continue in session one week.

In the county of Kaufman, on the third Mondays after the fourth Mondays in March and September, and may continue in session one week.

In the county of Ellis, on the fourth Mondays after the fourth Mondays in March and September, and may continue in session one week.

In the county of Tarrant, on the fifth Mondays after the fourth Mondays in March and September, and may continue in session one week.

In the county of Dallas, on the sixth Mondays after the fourth Mondays in March and September, and may continue in session two weeks.

Section 2. That all writs and process of every kind that have been or may hereafter be issued from any of the District Courts of the Ninth Judicial District, shall be considered returnable, and shall be returned to the terms established by this act, and all such writs and process shall have the same force and effect as if they had originally been issued and made so returnable. And that all laws and parts of laws, conflicting with the provisions of this act, be, and they are hereby repealed, and this act take effect from and after its passage.

Approved, February 7, 1853.

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## CHAPTER XXXVII.

An Act confirming the acts of J. H. Raymond, State Treasurer.

Section 1. Be it enacted by the Legislature of the State of Texas, That the acts of J. H. Raymond, Treasurer of the State,

in disbursing the five per cent. United States bonds at three per cent. premium be, and the same are hereby confirmed; and this act shall take effect and be in force from and after its passage.

Approved, February 7, 1853.

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CHAPTER XXXVIII.

AN ACT

To prescribe the time of holding the District Courts in the Second Judicial District of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That the terms of the District Courts of the second Judicial District, shall be held in each county in the District twice in each year, as follows:

In the county of Travis on the first Mondays in March and September, and may continue in session four weeks.

In the county of Hays on the fourth Mondays after the first Mondays in March and September, and may continue in session one week.

In the county of Comal on the fifth Mondays after the first Mondays in March and September, and may continue in session one week.

In the county of Guadalupe on the sixth Mondays after the first Mondays in March and September, and may continue in session one week.

In the county of Caldwell on the seventh Mondays after the first Mondays in March and September, and may continue in session one week.

In the county of Fayette on the eighth Mondays after the first Mondays in March and September, and may continue in session two weeks.

In the county of Bastrop on the tenth Mondays after the first Mondays in March and September, and may continue in session two weeks.

In the county of Burnet on the twelfth Mondays after the first Mondays in March and September, and may continue in session one week.

Sec. 2. All process returnable to, and all cases triable at the

regular terms of the District Courts of the Second Judicial District, as now provided for by law, shall be returnable to and triable at the regular terms herein prescribed. That all laws and parts of laws conflicting with the provisions of this act be, and they are hereby repealed, and that this act be in force from its passage.

Approved, February 7, 1853.

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## CHAPTER XXXIX.

### AN ACT

Supplementary to An Act to prohibit Assessors and Collectors of Taxes from exercising Official functions before they are duly qualified, approved September fifth, eighteen hundred and fifty.

Section 1. Be it enacted by the Legislature of the State of Texas, That the act to which this is supplementary shall apply to Assessors and Collectors who are in arrearages to the county, as well as to those who are in arrearages to the State, upon notice of the fact to the Secretary of the State or Comptroller, from the Chief Justice or County Court of the County where said delinquent Assessor and Collector resides.

Sec. 2. That this act shall take effect and be in force from and after its passage.

Approved, February 7, 1853.

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## CHAPTER XL.

### AN ACT

Making appropriations for the purposes therein named.

Section 1. Be it enacted by the Legislature of the State of Texas, That the following sums be and the same are hereby appropriated:

To W. C. Gould, for expenses on the transporting of public

arms from Galveston to Austin, one hundred dollars and thirty-six cents.

For stationery for next Legislature, five hundred dollars.

For fire-proof safe for Land Office, five hundred dollars.

For translating and interpreting to Commissioners to examine land titles west of the Nueces, (to be paid on final settlement of the account of said Commissioners with the Comptroller), seven hundred and forty-five dollars.

To W. H. Parsons, Associate Justice of the Supreme Court, one hundred dollars.

To three Presidential Electors, for their mileage and per diem pay, one hundred and seventy-seven dollars.

For repairing Treasurer's Office, two hundred and fifty dollars and eighty cents.

For repairing Secretary of State's Office, two hundred and eighty-four dollars and eighty-four cents.

For copying the laws and resolutions of the last Legislature, for public printer, two hundred and sixty-six dollars and forty-four cents.

For land scrip heretofore surveyed, one thousand dollars.

To R. J. Jones, sheriff of Bexar county, for transporting convicts to the Penitentiary, forty-six dollars.

For contingent fund of both Houses of the Legislature, five thousand dollars.

To Executive Office for translating the laws of last and present session of the Legislature in the German language, five hundred dollars.

For clerk's hire to Land Office for making abstract of land titles, one hundred dollars.

To J. W. Hampton, for printing and binding, one hundred and five dollars.

To expenses incurred by James B. Shaw, in connection with the sale of eight hundred thousand dollars United States bonds, five per cents., eleven thousand one hundred and sixty-six dollars and sixteen cents.

For costs due the clerk of the Supreme Court of the United States, incurred in two suits instituted by the State of Texas to establish the illegality of the fraudulent certificates, one hundred dollars.

To the members and officers of the Legislature of this session, for their per diem pay and mileage, the unexpended balance of the appropriation made at the last session of the Legislature, to be drawn for as formerly in such cases.

Ninety-six dollars, annually, to David F. Wells, for two

years, as a pension, commencing from the expiration of the last appropriation for his benefit.

For expenses incurred by John Dusenberry, in bringing the remains of the decimated Mier prisoners from the place of their massacre to LaGrange, three hundred and fifty dollars.

To E. Dougherty, late assessor and collector of the county of Cameron, for taking and returning the census of 1851, one hundred and forty-three dollars.

To M. B. Irwin, the balance due to him for distributing Hartley's Digest, the laws and journals, three hundred and fifty-one dollars and twenty-two cents.

To James B. Shaw, eleven hundred and fifty dollars, claim presented last session.

For translating and printing laws of present session, in the Spanish language, two hundred and fifty dollars.

For pension, commencing January 1, 1853, and payable quarterly, to Henry Tierwester, a disabled soldier of the Texas revolution, per annum, one hundred dollars.

For Samuel Yerger and Robert C. Campbell, special Associate Justices of the Supreme Court in the case of Morrell, wife, et al, vs. Haynie, from Grimes county, each, one hundred dollars.

For a second assistant draughtsman for the General Land Office, per annum, seven hundred dollars.

For salary of one district judge for the thirteenth judicial district, seventeen hundred and fifty dollars.

For salary of one district attorney for the thirteenth judicial district, five hundred dollars.

Sec. 2. The above amounts shall be paid out of any money in the Treasury not otherwise appropriated, arising from the interest accruing on the bonds of indemnity issued by the United States Government to the State of Texas, and the same shall be drawn for and paid out in conformity with existing laws regulating the payment of money out of the Treasury of the State.

Sec. 3. Nineteen hundred and fifty dollars of United States five per cent. indemnity bonds, for amount of interest due the General School Fund on State bonds, issued December 2, 1850, under the act for the safe and profitable investment of the School Fund.

Sec. 4. And this act shall take effect and be in force from and after its passage.

Approved, February 7, 1853.



CHAPTER XLI.

AN ACT

To change the Northern Boundary of the County of Williamson.

Section 1. Be it enacted by the Legislature of the State of Texas, That the northern boundary line of Williamson county be, and the same is hereby established, to begin at the point where the said northern boundary line crosses the Salado Creek, thence in a straight line to the most eastern corner of Burnet county; thence following the boundary line of Burnet county to its nearest junction with the present boundary of Williamson county, and that this act take effect from and after its passage.

Approved, February 7, 1853.

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CHAPTER XLII.

AN ACT

Relating to Appeals and Writs of Error from the Thirteenth Judicial District.

Section 1. Be it enacted by the Legislature of the State of Texas, That all cases taken by appeal, writ of error, or other process by law provided, from any District Court within the Thirteenth Judicial District to the Supreme Court of the State, shall be returnable to the said Supreme Court at the city of Austin, from and after the passage of this act.

Approved, February 7, 1853.

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CHAPTER XLIII.

Joint Resolution proposing an amendment to the Constitution.

Be it resolved by the Legislature of the State of Texas, That the following be proposed as an amendment to the amendment to the Constitution of the State of Texas, to be added to such

amendment, as section 3; which, when ratified as provided for by the thirty-seventh section of the seventh Article of said Constitution, shall be valid to all intents and purposes as a part of said Constitution:

Sec. 3. That in case a vacancy shall from any cause occur in any of the offices mentioned in the first section of the amendment of the Constitution, the Governor shall appoint some suitable person to fill such vacancy, who shall continue to discharge the duties of such office until the time of the next general election established by law for the election of State or County officers, and until his successor shall have been elected and qualified.

Approved, February 7, 1853.

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## CHAPTER XLIV.

### AN ACT

To extend the provisions of an act entitled an act to provide for ascertaining the debt of the late Republic of Texas, approved March 20th, 1848.

Section 1. Be it enacted by the Legislature of the State of Texas, That the time within which it shall be necessary for the creditors of the late Republic of Texas to present their claims for personal services, civil or military, and for supplies, to the Auditor and Comptroller be, and the same is hereby extended for the term of eighteen months from the passage of this act; and all claims not presented by that time shall be barred; provided, that nothing in this act contained shall authorize the Auditor and Comptroller to acknowledge any class of claims not heretofore by law provided for.

Sec. 2. That the Auditor and Comptroller shall immediately cause a notice of this extension to be published for three months in some weekly newspaper printed in Austin, and in two papers printed in Eastern, and in two in the Western Congressional Districts; and in other respects the said officers shall be required to perform the same duties as required of them by an act to provide for ascertaining the debt of the late Republic of Texas, approved March the 20th, 1848.

Sec. 3. That this act take effect from and after its passage.

Approved, February 7, 1853.

CHAPTER XLV.

**An Act making an additional appropriation for a Contingent Fund.**

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of two thousand dollars, or so much thereof as may be necessary, be, and the same is hereby appropriated, as an addition to the fund heretofore set apart to defray the contingent expenses of the present extraordinary session of the Legislature, and that this act take effect from and after its passage.

Approved, February 7, 1853.

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CHAPTER XLVI.

**An Act to regulate Railroad Companies.**

Section 1. Be it enacted by the Legislature of the State of Texas, That all railroad companies which have been heretofore incorporated, or which shall hereafter be incorporated, or relieved from the performance of any act required of them, or which shall accept of any donation or loan from this State, or which shall accept of the subscription of any county of this State, shall have all the powers and privileges, and be subject to all the duties, liabilities and provisions contained in this act.

Sec. 2. If the directors of any such company shall declare and pay any dividend when the company is insolvent, or any dividend, the payment of which would render it insolvent, they shall be jointly and severally liable for all the debts of the company then existing, and for all that shall be thereafter contracted, so long as they shall respectively continue in office; provided, that if any of the directors shall be absent at the time of making the dividend, or shall object thereto, and shall within thirty days thereafter, or after his return, if absent, file a certificate of their absence or objection in writing with the clerk of the company, and with the clerk of the county in which the principal office of said company is located, they shall be exempt from said liability.

Sec. 3. If any certificate or report made, or public notice

given by the officers of any such company, in pursuance of the provisions of this act, shall be false in any material representation, all the officers who shall have signed the same, shall be jointly and severally liable for all the debts of the company contracted while they are officers or stockholders thereof.

Sec. 4. Such corporation shall, as soon as convenient after its organization, establish a principal office at some point on the line of its road, and change the same at pleasure, giving public notice in some newspaper of such establishment and change; and all process against such company shall be served on the President or Secretary, or by leaving a copy at the principal office of the corporation.

Sec. 5. No bridge or other obstruction shall be erected across, in or over any navigable stream, so as to prevent or unreasonably impede the navigation thereof.

Sec. 6. Such corporation shall erect at all points where its road shall cross any public road at a sufficient elevation from such public road, to admit of the free passage of vehicles of every kind, a sign with large and distinct letters placed thereon to give notice of the proximity of the railroad, and warn persons of the necessity of looking out for the cars; and any company neglecting or refusing to erect such sign shall be liable in damages for all injuries occurring to persons or property from such neglect or refusal.

Sec. 7. Every conductor, baggage-master, engineer, brakeman or other servant of any such railroad corporation, employed in a passenger train, or at stations for passengers, shall wear upon his hat or cap, a badge which shall indicate his office, and the initial letters of the style of the corporation by which he is employed. No conductor or collector without such badge shall demand, or be entitled to receive from any passenger, any fare, toll, ticket, or exercise any of the powers of his office, and no other of the said officers or servants, without such badge, shall have any authority to meddle or interfere with the passengers, their baggage or property.

Sec. 8. If any passenger shall refuse to pay his fare or toll, it shall be lawful for the conductor of the train and the servants of the corporation, to put him out of the cars at any usual stopping place which the conductor may select.

Sec. 9. Every such corporation shall start and run their cars for the transportation of passengers and property at regular times, to be fixed by public notice, and shall furnish sufficient accommodations for the transportation of all such passengers and property as shall within a reasonable time previous there-

to, offer or be offered for transportation at the place of starting, and the junctions of other railroads, and at sidings and stopping places established for receiving and discharging way-passengers and freights, and shall take, transport, and discharge such passengers and property at, from and to such places, on the due payment of the tolls, freight or fare legally authorized therefor.

Sec. 10. In case of refusal by such corporation or their agents so to take and transport any passenger or property, or to deliver the same or either of them at the regular or appointed time, such corporation shall pay to the party aggrieved, all damages which shall be sustained thereby, with costs of suit.

Sec. 11. A check shall be affixed to every package or parcel of baggage, when taken for transportation by the agent or servant of such corporation, and a duplicate thereof giving to the passenger or person delivering the same on his behalf; and if such check be refused on demand, the corporation shall pay to such passenger the sum of ten dollars to be recovered in an action of debt; and, further, no fare or toll shall be collected or received from such passenger; and if such passenger shall have paid his or her fare, the same shall be refunded by the conductor in charge of the train; and on producing said check, if his or her baggage shall not be delivered to him or to her, he or she may, himself or herself be a witness in any suit brought by him or her to prove the contents and value of said baggage.

Sec. 12. In forming a passenger train, baggage or freight or merchandize or lumber cars shall not be placed in rear of passenger cars; and if they or any of them shall be so placed, and any accident happen to life or limb, the officer or agent who so directed, or knowingly suffered such arrangement, and the conductor and engineer of the train shall each and all be held guilty of intentionally causing the injury, and be punished accordingly.

Sec. 13. A bell, of at least thirty pounds weight, or a steam whistle shall be placed on each locomotive engine, and the bell shall be rung, or whistle blown, at the distance of at least eighty rods from the place where the railroad shall cross any road or street, and be kept ringing or blowing until it shall have crossed such road or street, or stopped, under a penalty of fifty dollars for every neglect, to be paid by the corporation owning the railroad; one half thereof to go to the informer, and the other half to the State, and also be liable for all damages which shall be sustained by any person by reason of such neglect.

Sec. 14. That if any person shall, while in charge of a loco-

motive engine, running upon the railroad of any such corporation, or while acting as the conductor of a car, or train of cars on any such railroad, be intoxicated, he shall be guilty of a misdemeanor, and be punished by fine or imprisonment, or both.

Sec. 15. It shall be lawful for the legislature at any time, to prescribe the rates to be charged for the transportation of persons and property upon any such road, should they be deemed too high; and may exercise the same power every ten years; provided, that no reduction shall be made, unless the nett profits of the company for the previous ten years, the expenditures of the company, being bona fide, and not with a view to defeat the operation of this section, shall amount to a sum equal to twelve per centum per annum upon its capital stock, and then so as not to reduce the future probable profits below the said per centum.

Sec. 16. Every such company shall at all reasonable times, and for a reasonable compensation, draw over their road the passengers, merchandize and cars of any other railroad corporation which may enter and connect with their railroad; and if the respective companies cannot agree upon the compensation aforesaid, it shall be the duty of the President of each company to select one man as a commissioner, and the two commissioners so selected, shall choose a third in case of disagreement, neither of whom shall be a stockholder in either road, or interested therein, and they shall fix the rates, which shall not be changed for one year from the time of going into effect; the said commissioners shall also fix the stated periods at which said cars are to be drawn as aforesaid, having reference to the convenience and interest of said corporations and the public who shall be accommodated thereby; the right or power is specially conferred on any railroad company to enter and connect with any other railroad within the scope of its designated route and branches.

Sec. 17. If the Legislature of this State shall at any time make provision by law, for the repayment to any such company of the amount expended by them in the construction of said road, together with all monies for permanent fixtures, cars, engines, machinery, chattels and real property, then in use for the said road, with all monies expended for repairs or otherwise, and interest on such sums at the rate of twelve per centum per annum after deducting the amount of tolls, freights, passage money, and all monies received from the sale of lands donated by the State to said company, with twelve per centum per annum inter-

est on all such sums, then the road with all its fixtures and appurtenances aforesaid, and all the lands donated to the same by the State and remaining unsold, shall vest in and revert to this State; provided, that the State shall not be required to pay, or allow a greater rate of interest on any amount of the money so expended by any company which shall have been borrowed from this State, than the State shall have received for the same from such company.

Sec. 18. Every such corporation shall make an annual report to the Comptroller of Public Accounts of this State of the operations of the year ending on the first day of October, which report shall be verified by the oaths of the Treasurer and acting superintendent of operations, and filed in his office by the twentieth of October in each year, and shall state—

1st. The capital stock and the amount actually paid in.

2nd. The amount expended for the purchase of land for the construction of the road, for buildings and for engines and cars, respectively.

3rd. The amount of nature and its indebtedness, and the amount due the corporation.

4th. The amount received for the transportation of passengers, of property, of the mail, and from all other sources.

5th. The amount of freight, specifying the quantity in tons, of the product of the forest, of animals, of vegetable food, other agricultural products, manufactures, merchandize and other articles.

6th. The amount paid out for repairs, engines, cars, buildings and salaries respectively.

7th. The number and amount of dividends, and when made.

8th. The number of engine houses, and shops, of engines and cars, and their character.

9th. The number of miles run by passenger, freight and other trains, respectively.

10th. The number of men employed and their occupations.

11th. The number of persons injured in life or limb, and the cause of such injuries.

12th. Whether any accidents have arisen from carelessness or negligence of any person in the employment of the corporations, and whether such person is retained in the service of the corporation.

13. The sales of lands donated by the State, and the quantity remaining unsold.

Sec. 19. Any such corporation, which shall neglect to make such report, shall be liable to a penalty of two hundred and fif-

ty dollars, to be sued for in the name of the State. And any corporation so neglecting, which shall neglect to make such report within three months after notice to the President or any director thereof of such failure by the Comptroller, shall forfeit its charter.

Sec. 20. Every such corporation shall, when applied to by the Postmaster General, convey the mail of the United States on its road or roads; and in case such corporation shall not agree as to the rate of transportation therefor, and as to the time, rate or speed, manner and condition of conveying the same, it shall be lawful for the Governor of the State to appoint three commissioners, who, or a majority of them, after fifteen days notice in writing, of the time and place of meeting to the corporation, shall determine and fix the prices, terms and condition aforesaid; but such price shall not be less for conveying said mails in the regular passenger trains, than the amount which such corporation would receive as freight on a like weight of merchandize, transported in their merchandize trains, and a fair compensation for the post office car; and in case the post master General shall require the mail to be carried at other hours, or at a higher speed than the passenger train be run at, the corporation shall furnish an extra train for the mail, and be allowed an extra compensation for the expenses and wear and tear thereof, and for the services, to be fixed as aforesaid.

Sec. 21. Every such corporation shall within a reasonable time after their road shall be located, cause to be made,

1st. A map and profile thereof, and of the land taken or obtained for the use thereof, and file the same in the General Land Office of this State, and also like maps of the parts thereof located in different counties, and file the same in the offices of the County Clerk and District Surveyor of the county in which such parts of said road shall be, there to remain as a record forever. Every such map shall be drawn on a scale and on paper to be designated by the Commissioner of the General Landoffice, and certified and signed by the President of the corporation.

2nd. A certificate specifying the line upon which it is proposed to construct the railroad and the grades and curves certified and signed and filed as aforesaid.

Sec. 22. The width of the track or gauge of all roads in the State shall be six feet.

Sec. 23. The Legislature may examine the books of any such company by committee or otherwise, as often as may be deemed expedient.



Sec. 24. Every such company shall have a good and sufficient brake upon the hindmost car on all trains transporting passengers and merchandize, and also permanently stationed there a trusty and faithful brakeman, under a penalty of not exceeding one hundred dollars for each offence, to be recovered by suit in the name of the State.

Sec. 25. Every proxy shall be dated within six months previous to the meeting of the stockholders at which said proxy is to be voted on.

Approved, February 7, 1853.

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## CHAPTER XLVII.

### AN ACT

To facilitate the operations of persons engaged in the United States Coast Survey, in the State of Texas, under proper restrictions.

Whereas, according to the provisions of an act of the Congress of the United States, passed February 10th, 1807, and of acts supplementary thereto, and in pursuance of the same, the operations of the United States Coast Survey have reached the coast of Texas, and it is important that such operations should be carried on without hindrance or injuries, and that certain privileges should be granted to persons employed in the same, without detriment nevertheless to the citizens of Texas. Therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That any and every person employed under, and by virtue of an act of the Congress of the United States, passed February 10th, 1807, and the acts supplementary thereto, concerning the United States Coast Survey, may enter upon lands within this State and clear and cut timber upon the same, and may erect thereon any works, buildings, stations, monuments, signals or appendages requisite for the purpose of exploring, surveying, triangulation, leveling or doing any other act requisite or proper to effect the objects of said acts of Congress, without being considered as a trespasser or trespassers; provided, no unnecessary injury be done thereby.

Sec. 2. That if the parties interested, namely, the person or persons acting under or representing the Government of the United States in the said Coast Survey, on the coast of Texas, and the person or persons owning or possessing any land so entered upon and to which damage may have been done, cannot agree together upon the amount to be paid for the damages by doing any of the acts aforesaid, either of them may complain in a summary manner to the Chief-Justice of the county in which said land is situated; who shall associate with himself two disinterested free-holders of said county, one to be named by each party interested, and the said Chief-Justice and free-holders shall, upon hearing the parties and their evidence, and with or without view of the premises, as they may determine, proceed to assess, award and adjudge such damages as may have accrued to the owners or possessors of said land; provided, that the said Chief-Justice shall so soon as said complaint is made before him, fix a day and place for the hearing thereof, of which the opposite party shall have at least ten days notice; and provided further, that if said Chief-Justice and free-holders can not agree as to said damages, the decision of any two of them agreeing shall be their judgment or award.

Sec. 3. That the Chief-Justice and free-holders, or the two of them agreeing, shall enter up in writing a brief statement of the matters in controversy before them, and also their judgment or award, which shall be signed by them or the two agreeing, and shall be within ten days thereafter, filed in the office of the Clerk of the District Court of the same county, and upon satisfaction and payment of the said amount of damages, the same shall be conclusive evidence of the assent of said owners or possessors in the premises; provided, that either party shall have the right within ten days after the filing of such judgment or award in the office of said clerk, to file objections to said judgment or award; of which a copy shall be issued by said clerk and served upon the opposite party, whereupon the said judgment or award shall be suspended, and an issue shall be made up and a trial had, at the first succeeding term of said District Court, as in other cases; and provided further, that unless said objections be filed within the said ten days, or satisfaction made of said judgment or award, execution may issue thereon by the clerk of said court as in other cases.

Sec. 4. That any person or persons so entering upon any land as aforesaid, for the purposes aforesaid, may tender to the party injured sufficient amends for any damage done upon said

lands, and if upon examination before said Chief-Justice and free-holders as aforesaid, or upon the trial before the District Court as aforesaid, the damages finally assessed shall not exceed the amount so tendered, the person or persons so entering and making tender of amends shall recover his or their costs.

Sec. 5. That the costs on any proceedings by virtue of this act, shall be by analogy to the compensation for like services, performed by the same officers, the said free-holders to be allowed two dollars per day each, for every day of necessary service they may perform.

Sec. 6. That all complaints and actions against any person or persons, entering on any land as aforesaid, shall be forever barred, unless prosecuted within one year from the time the cause of such complaint or action occurred.

Sec. 7. That if any person or persons shall wilfully or wantonly injure, deface or remove any signal, monument, work, building or appendage to any of them used or constructed within the State of Texas, under and by virtue of the acts of Congress aforesaid, he and they shall be liable to indictment for the same, under this statute, for each and every such offence, and upon conviction thereof, shall be sentenced to pay a fine of not less than fifty nor more than five hundred dollars, one half of which shall go to the prosecutor, and the remainder to the State of Texas, or shall be imprisoned not less than one month, nor more than six months, or both at the discretion of the jury, and shall also be liable for all damages sustained by the United States of America, by reason of any such injury, defacement or removal, to be recovered by action in any court of competent jurisdiction.

Sec. 8. That this act shall take effect and be in force from and after its passage.

Approved, February 7, 1853.

## STATE OF TEXAS.

I, THOMAS H. DUVAL, Secretary of State of the State of Texas, certify that the second session of the Fourth Legislature of said State commenced its session at the City of Austin, on Monday, the tenth day of January, in the year one thousand eight hundred and fifty-three, and adjourned on Monday, the seventh day of February, in the year one thousand eight hundred and fifty-three.

And I further certify, that the Acts and Joint Resolutions contained in this Volume, are true copies, taken from the original rolls deposited in the Department of State, with which they have been carefully compared.

Given under my hand and Official Seal, at the City of  
[L. s.] Austin, the seventeenth day of March, in the year one thousand eight hundred and fifty-three.

THOMAS H. DUVAL.

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**SPECIAL LAWS**

**OF**

**THE FOURTH LEGISLATURE**

**OF**

**THE STATE OF TEXAS**

**VOLUME IV.**

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**PUBLISHED BY AUTHORITY.**

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**AUSTIN.**  
**1853**



# SPECIAL LAWS.

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## CHAPTER I.

An Act supplementary to an act entitled "An Act to establish and incorporate the Marshall University," and to change the name thereof to that of Van Zandt College.

Section 1. Be it enacted by the Legislature of the State of Texas, That the name of Marshall University be, and the same is changed to that of Van Zandt College.

Sec. 2. That the name of the Corporation of Trustees be changed to "the Trustees of Van Zandt College," and that all donations and bequests which have heretofore been made, or which may hereafter be made to said University, shall be good and binding, notwithstanding the change of name from Marshall University to Van Zandt College.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved, January 36, 1853.

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## CHAPTER II.

An Act to amend the act to incorporate the Buffalo Bayou, Brazos and Colorado Railway Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That sections second, third and seventeenth, of the "act to incorporate the Buffalo Bayou, Brazos and Colorado Railway Company," approved February 11, 1850, be so amended as to read as follows:

Section 2. That said company be, and is hereby invested

with the right of locating, constructing, owning and maintaining a Railway, commencing at a suitable point on Buffalo Bayou, in the county of Harris, and thence running by such course and to such point or points at or near the Brazos and Colorado rivers, or across the same as said company may deem advisable, with the privilege of making, owning and maintaining such branches to said road as they may deem expedient.

Sec. 3. The capital stock of said company shall consist of all its property, real and personal, franchises and rights to property; shall be divided into shares of one hundred dollars each, each share shall entitle the owner thereof to one vote in person or proxy, at all meetings of said company; said shares shall be deemed personal estate, and shall be transferable by any conveyance in writing, recorded either by the Treasurer in books kept by him at his office for that purpose, or by any other officer duly authorized by the Directors, in books kept by him in such other place as the Directors may appoint. Such transfers as are recorded at such other place, being within thirty days communicated to the Treasurer, and by him entered into his book.

Sec. 17. If at least twenty miles of said railway are not in running order by the 11th February, 1854, then this charter shall be null and void.

Sec. 2. That there shall be granted to said company, eight sections of land, of six hundred and forty acres each, for every mile of railway actually completed and ready for use, and upon the application of the President of the Company, or any duly authorized Agent thereof, stating that any section of five miles or more of said railway has been completed and is ready for use, it shall be the duty of the Comptroller of Public Accounts to require the State Engineer or a Commissioner to be appointed by the Governor, to examine said railway, and upon his certificate that said section of said railway has been completed in a good and substantial manner, and is ready for use, the Comptroller shall give information of that fact to the Commissioner of the General Landoffice, whose duty it shall be to issue to said company land certificates to the amount of eight sections of land, of six hundred and forty acres each, and shall be located upon any unappropriated domain of the State of Texas, within twelve months from the issuing thereof, which date shall appear upon the face of each certificate, and upon the return of the field-notes of any survey made by virtue of any certificate thus issued, it shall be the duty of the Commissioner of the General Landoffice to issue patents to

said company in their corporate name; one-fourth of which said lands thus patented shall be alienated by the company in six years, one-fourth in eight years, one-fourth in ten years, and the other fourth in twelve years, so that the whole of the lands thus granted shall pass from the hands of the company, within twelve years from the date of the patents thus issued. Said company shall have the same right or power that any other company have, or may hereafter have, chartered by this State, to connect and contract with other railway companies, and in case of disagreement between said companies, the same shall be referred and settled as provided for in like cases, and be binding for one year.

Sec. 3. The sixteenth section of said act of incorporation is hereby repealed.

Sec. 4. That this act be in force and take effect from and after its passage.

Approved, January 29, 1853.

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### CHAPTER III.

An Act for the Benefit of the heirs of H. P. Chamberlain, Deceased.

Sec. 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Landoffice be, and he is hereby authorized to issue to the heirs of Horace P. Chamberlain, deceased, a certificate for his head right of one-third of a league of land, which may be located, surveyed and patented upon the public lands of Texas, as other land claims are patented, and upon the payment of the Government dues and fees of office.

Sec. 2. And that this act go into effect upon its passage.

Approved, February 2, 1853.

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### CHAPTER IV.

An Act to Incorporate the town of Mount Vernon in Texas, Titus County.

Section 1. Be it enacted by the Legislature of the State of Texas, That the citizens of the town of Mount Vernon be, and

are hereby declared a body politic and corporate, under the title of the town of Mount Vernon, and by that name may sue and be sued in all suits whatever, and by that name may purchase, hold and convey any real or personal estate, within the limits of said town, and may have a corporate seal.

Sec. 2. That the limits of the corporation shall extend three-quarters of a mile each way from the public square.

Sec. 3. That all persons who are qualified electors under the constitution of the State, and who are citizens of the town of Mount Vernon, shall be allowed to vote in elections held in said town.

Sec. 4. That an election shall be held in said town on the first Monday of December of each and every year, for the purpose of electing a mayor, five aldermen, constable, secretary and treasurer; the first election shall be ordered by the first class justice of the peace of Titus county, at the beat in which said town is located, to be held as soon as practicable after the passage of this act, and that every subsequent election shall be ordered by the mayor and two aldermen, and if there be no mayor, said election shall be ordered by the three aldermen.

Sec. 5. That all officers elected by the first order shall hold their offices until the annual election, or until their successors are qualified; and all officers elected by the mayor and aldermen or aldermen, shall hold their office for one year; and in case of election to fill vacancies, the officers so elected shall hold their offices until the next annual election: Provided, however, that all such officers so elected shall hold their office until their successors are qualified.

Sec. 6. That no person shall be eligible to any of the said offices who is not a freeholder or householder, and a citizen of Mount Vernon.

Sec. 7. That the mayor shall be president of the board of aldermen; the mayor and three aldermen shall constitute a quorum to transact business; and that the board may enact such by-laws for the government of said town, not inconsistent with the laws and constitution of the State, as may be deemed proper; and may inflict such fines, not exceeding one hundred dollars, as may be deemed necessary.

Sec. 8. That the board of aldermen shall have control over the streets of said town, may order new streets to be laid out, and old ones to be discontinued at their discretion, by unanimous consent of the board; in such acts the board shall be governed by the laws of the State relative to the roads and highways.



Sec. 9. That all free males between the ages of twenty-one and forty-five, shall be liable to work the streets; that such persons shall not be compelled to work more than ten days in one year, and shall be exempt from working all other roads, and the board shall impose such fines against defaulters as they may deem necessary.

Sec. 10. That the board may levy an equal tax on all real and personal property and merchandize, or they may exempt a certain amount of household goods, and may levy a license tax on physicians, surgeons, boarding houses, livery stables, and may license or close all theatres or shows, all grog-shops, doggeries, or any dram-drinking establishment, restaurant, billiards, ten-pins, and all gambling Houses, and all such like indulgencies, but shall not tax agricultural or mechanical trades; such tax to be levied at the beginning of each year, and shall be assessed and collected by an officer to be appointed by the board, in the same manner that the State tax is collected; said tax not to exceed one per cent. ad valorem.

Sec. 11. That the board of Aldermen shall have power to appoint such officers, fix their salaries and duties, and to remove them for default or violation of duty as said board shall think proper; and all such officers shall be required to give bond and security to the mayor, in such penalty as may be deemed requisite, and shall be liable to such fines as may be imposed for neglect of duty.

Sec. 12. That the board of aldermen shall have power to regulate its own proceedings, and to prescribe the duty of all the officers of the corporation, and shall have the power to enact all ordinances necessary for the peace and welfare of said town, not contrary to law.

Sec. 13. That the Mayor shall try all offences against all the laws and ordinances of the town, and be ex-officio Justice of the Peace, with civil and criminal jurisdiction; the Mayor, Constable and Aldermen shall be conservators of the peace.

Sec. 14. That all offenses and violations against the ordinances aforesaid, shall be prosecuted before the Mayor, as required in the acts organizing Justice's Courts, and defining the powers and jurisdiction of the same; and the Constable shall execute all writs directed to him from the Mayor.

Sec. 15. That all elections shall be held in accordance with the law regulating elections.

Sec. 16. That the Constable, Secretary and Treasurer shall give bond and security, to be approved by the board of aldermen, for the faithful performance of their duty.

Sec. 17. That if any person elected or appointed to office under this charter, fail to qualify within ten days after his election or appointment, the board shall have power to declare the office vacant and order another election.

Sec. 18. That all officers before entering upon the duties of their respective offices, shall make oath faithfully to perform the duties of their respective offices.

Sec. 19. That elections shall be ordered to be held at least ten days before the expiration of the term of office of the officers designated by this charter.

Sec. 20. That all contests in elections shall be determined by the board of Aldermen; provided, however, that the election held by the order of the Magistrate for the first officers shall, if contested, be determined by the Magistrate ordering it.

Sec. 21. That this act take effect and be in force from and after its passage.

Approved, February 4, 1853.

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## CHAPTER V.

### AN ACT

Repealing the second section of an act passed on the 10th day of February, 1852, changing the names of Antionette Scott and Sidney Way, to that of Devereaux.

Section 1. Be it enacted by the Legislature of the State of Texas, That the second section of said act be repealed, leaving the first section in full force.

Sec. 2. That this act take effect from and after its passage.

Approved, February 4, 1853.

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## CHAPTER VI.

An Act for the relief of the inhabitants of Presidio de San Elizario, in El Paso County.

Whereas, the grant to the inhabitants of the town of Presidio de San Elizario, having been destroyed by the American troops in the year eighteen hundred and forty-six; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas. That the grant made to the people of Presidio de San

Elizario in the year seventeen hundred and ninety, to the following described tract of land, to wit: commencing on the Rio Grande at a point where the established line of division between the towns of Socarro and San Elizario strikes said river for the Northern boundary, and following said line to the hills bordering on the eastern bank of the river Viejo; thence running south-east along with said hills down the river Viejo, to a point at which said Rio Viejo empties into the Rio Grande; thence up said Rio Grande from the mouth of the Rio Viejo to the place of beginning, containing four leagues more or less, is hereby fully recognized and confirmed.

Sec. 2. That the Commissioner of the General Landoffice be, and he is hereby authorized to issue a patent to the inhabitants of said town of Presidio de San Elizario, to the above described tract of land; provided, that there are no evidences of conflicting claims for said tract of land on record in the General Landoffice.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved, February 5, 1853.

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## CHAPTER VII.

### An Act to Incorporate and establish St. Paul's College:

Section 1. Be it enacted by the Legislature of the State of Texas, That an Institution of learning, to be known as St. Paul's College be, and the same is hereby established at Anderson in the county of Grimes.

Sec. 2. That there shall be for the present, seven Trustees of said College, to take charge of its interests, a majority of whom shall constitute a quorum to do business.

Sec. 3. That the following named persons, having been duly chosen Trustees of said College, are recognized as such, viz: Geo. W. Freeman, Anson Jones, Peter W. Gray, Guy M. Bryan, E. B. Nichols, D. C. Dickson and S. G. Haynie, which board may be increased as hereinafter provided for, to any number not exceeding fifteen.

Sec. 4. That the aforesaid Trustees and their successors in office be, and they are hereby constituted a body politic and corporate, in deed and in law, by the name of the "President and Trustees of St. Paul's College," and by that name they and

their successors may and shall have perpetual succession, and be able and capable in law to receive, have and enjoy, to them and their successors, lands, tenements, hereditaments of any kind, in fee or for life, or for years, and personal property of any kind whatsoever, and all sums of money which may be granted, given or bequeathed to them for the purpose of promoting the interests of said College.

Sec. 5. That there shall be a stated meeting of the Board of Trustees in each year, at the time of conferring degrees, and that the President of said Board of Trustees shall have full power to call an occasional meeting of the Board whenever it shall appear to him necessary, and a majority of said Board shall have similar power.

Sec. 6. That the Trustees of said College may and shall have a common seal for the business of themselves and their successors, with liberty to alter or change the same from time to time, as they shall think proper, and that by their aforesaid name, they and their successors may and shall be able to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended in all courts of law and equity in this State, and to grant, bargain, lease, sell or assign any lands, tenements, goods or chattels, now belonging to said College, or that may hereafter belong to the same; to construct all the necessary buildings for said Institution; to establish a preparatory department, and departments for the study of any or all the learned and liberal professions, at such places as may be designated by them, and any such dependent institutions as they may deem necessary in furtherance of the objects of this act; to establish fellowships and scholarships; to have the management of the finances; the privilege of electing their own officers (except as hereinafter provided;) of appointing all necessary committees, and to act and do all things whatsoever for the benefit of said Institution in as ample a manner as any body politic or corporate may and can do by law.

Sec. 7. That the Trustees shall have the power of prescribing the course of studies to be pursued by the students, and of framing and enacting all such ordinances and by-laws as shall appear to them necessary from time to time for the government of said College and for their own proceedings; provided, always, that the same be in accordance with the Constitution of the United States and of the State of Texas.

Sec. 8. That the head of said College shall be styled the President, and the instructors thereof the Professors and Tutors, and the President and Professors of the departments general-

ly; the Faculty of the respective departments of said College; which Faculty as above shall have power of enforcing the ordinances and by-laws adopted by the Trustees for the government of the students in their respective departments, by rewarding or censuring them, and finally by suspending or expelling such of them as after repeated admonitions shall continue disobedient or refractory.

Sec. 9. That the Trustees shall have power by the President and Faculty of said College to grant and confer such degree or degrees in the arts, sciences and learned professions to the students of said College, and to other persons worthy thereof, as are usually granted and conferred in other Colleges or Universities in the United States, and to give certificates thereof or diplomas, signed by them, and sealed with the common seal of the Trustees of the College, to authenticate and perpetuate the memory of such graduations.

Sec. 10. That whenever a vacancy shall occur, either by death, resignation, or removal by the appointing power, in the Board of Trustees, such vacancy shall be filled by the annual convention of the Protestant Episcopal Church in the diocese of the State of Texas, and said convention may at their discretion, at any time hereafter, increase the Faculty to any number not exceeding fifteen, and classify the same and fix their terms of office.

Sec. 11. That the Bishop of the Protestant Episcopal Church in the diocese of Texas, for the time being, and his canonical successors, shall be ex-officio President of the Board of Trustees, and until some other person shall, with his approval, be appointed by the Board, be also President of the Faculty of said College.

Sec. 12. That the Trustees shall have the power of appointing the President of the Faculty as hereinbefore provided, and the Professors and other officers connected with the College, and of fixing their salaries, and also of removing them for cause, a majority of the whole number concurring in said removal.

Sec. 13. That no misnomer of said College shall defeat or annul any gift, grant, devise or bequest to the same.

Sec. 14. That this act shall be deemed a public one, and judicially taken notice of without special pleading.

Sec. 15. That in case any donation, devise or bequest, shall be made for particular purposes, accordant with the designs of this institution, and the Trustees shall accept the same; every such donation, devise, or bequest shall be applied in strict con-

formity with the express conditions of the donor or deviser, and the property or funds belonging, or in anywise appertaining to the Institution, shall not be diverted from the primary object for which they were donated.

Sec. 16. That the seal of the corporation, with the attestation of the President, or in his absence, of the usual majority of the Trustees, shall be sufficient to authenticate any act of the corporation.

Approved, February 4, 1853.

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## CHAPTER VIII.

### An Act supplementary to an act to establish the La Salle and El Paso Railway Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That all that portion of an act to establish the La Salle and El Paso railway company, approved the 11th day of February, 1850, contained in the fourth section, and all the subsequent sections thereof, be, and the same are hereby repealed; and whereas, it is desirable to preserve uniformity in the several enactments establishing railway companies, by this legislature, the following provisions are hereby adopted at the instance of the Commissioner named in the said original act, for the government, formation and observance of the company thereby established.

Sec. 2. That the meeting of the Commissioners provided for by this act, and the said original act, may be held at such times and places as they may appoint, and at said meetings the Commissioners may act in person or by proxy.

Sec. 3. The capital stock of said company, to consist of all its property, real and personal, franchises and rights to property, shall be divided into shares of one hundred dollars each. Each share entitling the owner thereof to one vote by himself, or proxy, at all meetings of said company, that said share shall be deemed personal estate, and shall be transferable by any conveyance in writing, recorded by the treasurer, in books kept by him at his office, or in such other manner as the by-laws of said company shall provide.

Sec. 4. The immediate government and direction of the affairs of said company, shall be vested in a board of not less than six directors, who shall choose one of their own number as Presi-

dent of said company. No person shall be eligible to the office of Director, unless an owner or subscriber of at least five shares of the stock of said company; the Directors shall have power to fill any vacancy that may occur in said board, from non-election, death, or otherwise, and may appoint a Secretary, Treasurer, and such other officers and agents as they may consider necessary, and prescribe and require bonds for the faithful performance of their duties; they may, if not otherwise provided by the by-laws, determine the manner of conducting all meetings, the number of members that shall constitute a quorum, and to do or cause to be done, all other lawful matters and things which they may deem necessary and proper in conducting the matters of the company; and they shall keep or cause to be kept, accurate records of all meetings of the Directors and company, and accurate accounts of the receipts and expenditures of the company, which shall be open to the inspection of the stockholders; a majority of the board of Directors shall have the authority of a full board, and all conveyances and contracts in writing, executed by the President and countersigned by the Secretary, or any other officer or person authorized by the Directors, under the seal of the company, and in pursuance of a vote of said Directors, shall be valid and binding.

Sec. 5. The shares may be disposed of and books open for subscription thereto, in such manner and on such terms as said Commissioners shall determine will be best for the interest of said company, and any agreement in writing by which any person shall become a subscriber to the capital stock of said company, may be enforced against him according to its terms, and if any subscriber shall fail to pay any amount due upon shares subscribed by him according to the terms of his subscription, the Directors may sell at auction, and transfer to the purchaser the shares of such delinquent, and if the proceeds of sale shall not be sufficient to pay the amount due on said subscription, with interest and charges, such delinquent shall be held liable to the company for the deficiency, and if the proceeds shall exceed the amount so due, with interest and charges, said delinquent shall be entitled to the surplus.

Sec. 6. It shall be lawful for the company to enter upon and purchase or otherwise take and hold any land necessary for the purpose of establishing and constructing said railway, with all necessary depots and other buildings, and if they shall not be able to obtain said lands by agreement with the owners thereof, they shall pay therefor such compensation as shall be determined in the manner provided by the following section;

Provided, that the land so taken for the road bed, shall not exceed two hundred feet in width, and for depots and other buildings, only such further width as shall be needed for such purposes.

Sec. 7. Any person when land has been taken as aforesaid, without agreement or satisfactory compensation, may apply to the District Court of the county in which said land is situated for the appointment of, and the court shall thereupon appoint three disinterested free-holders of the county, who shall appoint a time and place to hear the applicant and the company, to whom shall be given by said free-holders, reasonable notice of said time and place, and said free-holders shall, after having sworn, and after due hearing of the parties, determine the amount of compensation, if any, to which the applicant is entitled, and make return of their award to the next succeeding term of said court, and said award if not rejected by said court for sufficient cause then shown, shall be entered up as the judgment of said court; in determining the question of compensation, said free-holders shall be governed by the actual value of the land at the time it was taken, taking into consideration the benefit or injury done to the other lands and property of the owner by the establishment of said railway, and if the amount of compensation awarded by said free-holders, shall not exceed the amount offered by said owner prior to said application to the court, the applicant shall pay the cost of the proceedings, otherwise the company shall pay the same.

Sec. 8. It shall be the duty of said company whenever any State or county road, now by law established, shall be crossed by the track of said railway, to make and keep in repair good and sufficient causeways at such crossings, and in all cases where any person shall own lands on both sides of said railway, and there shall be no other convenient access from one part to the other, such owner shall have the right of passage free of cost, at reasonable times, across the track of said railway.

Sec. 9. This company is hereby required at all reasonable times and for a reasonable compensation, to draw over their road, the passengers, merchandize and cars of any other railroad corporation, which has been or may hereafter be authorized by the legislature, to enter with their railroad and connect with the railroad of this company, and if the respective companies, shall be unable to agree upon the compensation aforesaid, it shall be the duty of the President of each company, to select each one man as a commissioner, and the two commissioners



so selected shall choose a third, in case of disagreement, neither of whom shall be a stockholder in either road or interested therein, and they shall fix the rates which shall not be changed for one year, from the time of going into effect, the said commissioners shall also fix the stated periods at which said cars are to be drawn as aforesaid, having reference to the convenience and interests of said corporation and the public, who will be accommodated thereby; the right or power is specially conferred on this said company, to connect and contract with any railroad company chartered by this State, for the performance of like transport, and in case of disagreement between said companies, the same shall be referred and settled as aforesaid, to be binding for one year as aforesaid.

Sec. 10. That said company may acquire real estate by gift or purchase, and that such commissioners hereinbefore mentioned shall have full authority to solicit and receive subscriptions, and conveyances of land to said company, until the time fixed for the first meeting of said commissioners, which authority may be then extended by said meeting; which land so obtained shall be alienated by said company in the following manner: one-fourth in six years; one-fourth in eight years; one-fourth in ten years, and the remaining one-fourth in twelve years from the time the same was acquired.

Sec. 11. If the track of this railway shall cross any navigable stream, it shall do it in such way as not to obstruct its navigation.

Sec. 12. Said company shall have the right to demand and receive such rates and prices for the transportation of passengers and freight as they may think proper to establish, not to exceed five cents per mile for passengers, and fifty cents per hundred pounds for freight, each hundred miles the same may be carried.

Sec. 13. If any person shall wilfully injure or obstruct said railway or its property, such person may be punished when prosecuted by indictment for said offense in due course of law, and also liable to action by said company, or any person whatever, who may suffer in person or property from said wilful obstruction, for the amount of damages occasioned thereby.

Sec. 14. There shall be granted to aid company eight sections of land, of six hundred and forty acres each, for every mile of railway actually completed by them and ready for use, and upon the application of the President of the company, or any duly authorized agent thereof, stating that any section of five miles or more of said railway has been completed and is

ready for use, it shall be the duty of the Comptroller of Public Accounts, to require the State Engineer, or a commissioner to be appointed by the Governor to examine said railway, and upon his certificate that said section of said railway has been completed in a good and substantial manner, and is ready for use, the Comptroller shall give information of that fact to the Commissioner of the General Landoffice, whose duty it shall be to issue to said company land certificates to the amount of eight sections of land of six hundred and forty acres each, for each and every mile of railway thus completed and ready for use, such certificates shall be for six hundred and forty acres each, and shall be located upon any unappropriated public domain of the State of Texas, within twelve months from the issuing thereof, which date shall appear upon the face of each certificate, and upon the return of the field-notes of any survey made by virtue of any certificates thus issued, it shall be the duty of the Commissioner of the General Landoffice, to issue patents to said company in their corporate name. One fourth of which said lands thus patented shall be alienated by the company in six years, one-fourth in eight years, one-fourth in ten years, and the other fourth in twelve years, so that the whole of the lands thus granted, shall pass from the hands of the company within twelve years from the date of the patent thus issued.

Sec. 15. Said company shall be required to have a good and sufficient brake upon the hindmost car in all trains transporting passengers or merchandize, and also permanently stationed there, a trusty and skillful brakeman, under a penalty not exceeding the sum of one hundred dollars for each offense, to be recovered in any court of competent jurisdiction, for the benefit of the State, and said company shall cause to be placed on each locomotive engine passing over their road, a bell of the weight of at least twenty-five pounds, or a steam whistle, and the said bell shall be rung or the whistle blown at the distance of at least eighty rods from the place of crossing any highway or turnpike, and kept ringing or blowing until the engine has passed or stopped; said company shall be required to construct their railroad with good T or U iron rails: Provided, That no land shall be donated unless the company shall actually commence their road within two years, and actually complete and finish at least ten miles within three years.

Sec. 16. Nothing in this act shall be so construed as to confer banking privileges or powers of any kind whatever.

Sec. 17. If said railway shall not be commenced within five years from the passage of this act, and at least twenty

miles thereof completed within six years, then this charter shall be null and void; and it is hereby provided and declared, that it shall be lawful for any railway hereafter to be constructed, to cross the said railway or any branch thereof or to connect at any point therewith.

Sec. 18. The said company shall have the right to take and hold so much of the public lands, not exceeding two hundred feet wide, as the said railway or any of its branches may pass through, for the track thereof, and such additional width as may be absolutely necessary for any depot, or other work for the purposes of the railway, that the company may deem proper to establish, and in all cases where such railway or branch shall pass through any public lands, all such lands to the depth of three miles from the exterior lines of the track on each side, thereof, shall be, and hereby are reserved for the State, from and after the time such track shall be fixed or designated by survey, reconnoissance or otherwise, and the said lands as fast as the road is constructed, shall be divided into sections fronting one mile each on the road; which sections shall be numbered, and the corners of such sections on the road plainly marked, and of these reserved lands the company shall have the right by virtue of any of their certificates issued in accordance with the provisions of this act, to cause to be located, surveyed and patented for their use each alternate section, such section in each instance embracing a tract of land fronting one mile on said road, and extending back three miles, preserving an equal width, and the remaining sections shall continue the property of the State, until disposed of by the Legislature.

Approved, February 5, 1853.

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## CHAPTER IX.

### An Act for the relief of John White.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Landoffice be, and he is hereby required to issue to John White or his legal representatives, patents for two leagues and two labors of land, granted to said White by act of Congress, approved January 19th 1839, and that this act take effect from and after its passage.

Approved, February 5, 1853.

## CHAPTER X.

## An Act to incorporate the Andrew Female College.

Section 1. Be it enacted by the Legislature of the State of Texas, That Andrew J. Wiley, Francis A. McShan, Robert Wynne, J. Carroll Smith, C. G. Keenan, H. Yoakum, Daniel Baker, Williamson Wynne, Anthony C. Parmer, D. J. Ransom, Andrew J. McGown, Pleasant W. Kittrell and Micajah C. Rogers, be, and they are hereby incorporated, and with their successors, as hereinafter provided, shall be known and recognized in law, as the Trustees of Andrew Female College, and under that name shall have power to sue and be sued, to have a seal, and to do all things incident to corporations; provided, their acts as such shall not be inconsistent with the Constitution and laws of the United States, or of this State.

Sec. 2. Said Trustees shall hold their offices for two years from the first day of January, 1853, at which time the four first named shall go out of office; and at the end of two years thereafter, the next four shall go out of office; and at the end of two years more the remaining four shall go out of office; provided, that nothing herein contained shall prevent the reappointment of any Trustee whose time has thus expired.

Sec. 3. Said Female College shall be located at the town of Huntsville, and shall be under the supervision and patronage of the Texas Conference of the Methodist Episcopal Church South; provided, that no religious test shall ever be required of Professors, Tutors or Students in said institution.

Sec. 4. The places of those Trustees whose time shall expire as provided in the second section of this act, shall be filled by the Texas Conference of the Methodist Episcopal Church, South, and the Trustees so appointed by said Conference shall severally hold their offices for the term of six years from the expiration of the term of their successors, and so all vacancies by expiration of terms of service shall be filled.

Sec. 5. Said corporation shall have power to buy and sell real and personal estate, to erect buildings, enlarge and remove the same, to put in operation an institution of learning, to appoint and remove Professors, Teachers and Tutors, to confer degrees and grant diplomas to such as in their opinion shall deserve the same, to dismiss and suspend students, to make by-laws for their own government, and establish rules for the government of the College, to fix the rates of tuition, salaries of instructors, and generally to do all things necessary for the good conduct and management of a female College.

Sec. 6. Said Trustees shall elect one of their number Presi-

dent of the board, and a Secretary, when they shall be declared organized, and a majority of the entire board shall be competent to transact business.

Sec. 7. This corporation shall exist for fifty years under this charter.

Approved, February 7, 1853.

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## CHAPTER XI.

### An Act to incorporate the town of Seguin in Guadalupe county.

Section 1. Be it enacted by the Legislature of the State of Texas, That the citizens of the town of Seguin be, and they are hereby declared a body corporate, by the name and title of the incorporation of the town of Seguin, and by that name may sue and be sued, plead and be impleaded, and may hold and dispose of real and personal estate in said town.

Sec. 2. That the incorporated limits of said town of Seguin shall embrace the lower half of the branch league of land which is covered by the present town of Seguin, and the whole of the town of Guadalupe city on the upper half of said league adjoining the present town of Seguin, according to the original plot and plan of said Guadalupe city, as the same is recorded in the office of the clerk of the county court of Guadalupe county.

Sec. 3. That an election shall be held in said town on the first Monday in March, in each and every year, for a Mayor, a Constable, a Treasurer and four Aldermen, the first election to be conducted by the Chief Justice of Guadalupe county, and every subsequent election to be conducted by the Mayor or a majority of the Aldermen acting at the time of such election, and the persons elected shall continue in office one year, or until their successors are duly qualified.

Sec. 4. That whenever a vacancy shall occur in the office of Mayor, a majority of the Aldermen acting shall order and conduct an election to fill such vacancy, and the person so elected shall hold the office until the next regular election, or until his successor shall be duly qualified.

Sec. 5. That no person shall be eligible to the office of Mayor or Alderman unless a citizen of said town and a householder or owner of real estate therein, and no person shall be eligible to the office of Constable or Treasurer unless such person be a citizen of the same.

Sec. 6. That the Mayor shall be President of the board of Aldermen, that three of the members of said board, including the Mayor, shall constitute a quorum to transact business, and that the board may enact such by-laws for the Government of said town not inconsistent with the Constitution and laws of this State, as may be deemed proper, and may inflict fines for disobedience of the same, not exceeding twenty dollars.

Sec. 7. That the board of Aldermen shall have and exercise control over the public squares and streets in said town, and may compel all persons (ministers of the gospel excepted) over the age of eighteen and under forty-five years, to work on the same; provided, that such persons shall not be required to work more than ten days in any one year, and they shall be exempt from other road duty in said county, and the board may impose such fines on defaulters as they may deem necessary, in which the board shall be governed by the law of this State regulating roads.

Sec. 8. That the board of Aldermen shall have power to levy a tax on all persons and property, both real and personal, in said town, subject to taxation by the laws of this State; provided, that the tax on property shall not in any one year exceed one-fifth of one per cent. ad valorem on such property, and no tax shall be levied unless by two-thirds of the members present, which shall be assessed and collected by the Constable in the same manner as the State tax is collected; and the board shall also have the power to levy and collect a license tax on all shows, places of amusement, race tracks, billiard tables, ten pin alleys, houses for retailing spirituous liquors, or for the carrying on of any business or calling within said corporation.

Sec. 9. That the board of Aldermen shall have power to appoint such additional officers, with the regulation of their duties and compensation as may be necessary, and may require of them bond with security to the Mayor, in such penalty as may be deemed requisite to compel the official discharge of such duties as may be assigned them.

Sec. 10. That all offenses against the by-laws be prosecuted before the Mayor, and governed by the law organizing justices courts, and the Constable shall execute and return all writs issued by the Mayor in the same manner as is provided by law defining the duties of Constables.

Sec. 11. That in case of the death, resignation, or removal of any Alderman, Treasurer or Constable, the Mayor shall order an election under such rules and regulations as may be prescribed by the board, to fill such vacancy.

Sec. 12. That the Constable shall give bond and security as required of other Constables, shall have the same power and be entitled to the same fees for similar services.

Sec. 13. That the Mayor of said town shall be entitled to such fees as may be allowed Justices of the Peace for similar services, together with such other compensation as may be allowed him by two-thirds of the Aldermen present at the time of such allowance.

Sec. 14. That the Aldermen shall be entitled to such compensation as may be allowed them by the board; provided, in no case shall the same exceed two dollars per day for each day they may be required to sit as such Aldermen.

Sec. 15. That the Treasurer shall keep safely all the money of said corporation, shall pay out the same upon the order of the board, and shall do such other duties as may be assigned him by the by-laws; he shall give bond with security payable to the Mayor in such sum as may be deemed proper, conditioned for the faithful performance of his duties, to be approved by the board, and shall be allowed such compensation as may be allowed from time to time to county Treasurers.

Sec. 16. That the Mayor be, and is hereby invested with all the powers and jurisdiction of a Justice of the Peace within the limits of said town.

Sec. 17. That the books and records of the incorporation shall at all reasonable times be open to the examination of any citizen of said town or property holder therein, desiring the same.

Sec. 18. That all free white male persons over the age of twenty-one years, who shall have resided within said corporation for one month, and shall be entitled to a vote in the general elections of the State, shall be entitled to vote in the election of the officers of said corporation.

Sec. 19. That this act take effect and be in force from and after its passage.

Approved, February 7, 1853.

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## CHAPTER XII.

### An Act to incorporate the Indianola and Victoria Plank and Turnpike Road Company.

Section 1. Be it enacted by the Legislature of the State of

Texas, That Charles A. Ogsbury, Chambers Etter, James Ashworth, John H. Dale, H. J. Huck, John D. Logan, George F. Rodgers and their associates and successors be, and they are hereby created and established a body corporate, under the name of the Indianola and Victoria Plank and Turnpike Road Company, with capacity in said corporate name to contract, to make by-laws for the regulations of its affairs, to sue and be sued, to have succession and a common seal, and generally to do and perform all acts necessary and proper for the maintenance of its rights, and in accordance with the Constitution of the State.

Sec. 2. That the said company be, and is hereby invested with the right of locating, contracting, owning and maintaining a Plank and Turnpike road, commencing within the corporate limits of the town of Indianola, thence running by such course and to such points at or near Victoria as the company shall deem most suitable, with the privilege of making such branches and extensions as they may think expedient.

Sec. 3. That the parties named in this act, or a majority of them, with such persons as they may associate with themselves for such purpose, are hereby appointed Commissioners, and invested with the right of forming and organizing said company, and of exercising the powers of Directors until Directors are elected by the stockholders.

Sec. 4. That the capital stock of said company shall be one hundred thousand dollars, to be divided into shares of fifty dollars each, each share entitling the owner to one vote at all meetings of the company, the ownership of the several shares being determined by the exhibit of the original certificate, duly assigned, if not in the hands of the first holders, or proof of their ownership, said company being authorized to increase their capital stock to such an amount as may be necessary for the purposes herein specified.

Sec. 5. That until the stockholders shall elect a board of directors consisting of five persons, each one of whom shall own five shares at least, the Commissioners above named, or a majority of them, shall have the power to appoint all officers necessary and proper for such associations, and to make all contracts which may be necessary for carrying into effect the provisions of this charter, not conflicting with the constitution and laws of this State, and that when such board of Directors is elected, their powers to be the same as are herein conferred upon the Commissioners, and the powers of the Commissioners to cease.



Sec. 6. That the Commissioners or Directors shall have the power to dispose of the shares in said capital stock in such manner and on such terms as they may deem best for the interests of the company; any agreement in writing whereby any person shall become a subscriber, may be enforced against him according to its terms, and all contracts made by the company shall be in writing, and executed in such form as the Commissioners or Directors may adopt in their by-laws.

Sec. 7. That the said corporation shall have the power to appropriate such lands on the immediate route of said road, and within one hundred feet on each side of it, as may be necessary for the construction of said road or roads, upon compensating the owner or claimants of such lands for the same at their cash valuation, and for such further amount of damages which such owners may sustain in consequence of said road; which compensation and damages shall be ascertained in the following manner: the corporation shall present a petition to the Chief Justice of the county in which such land or lands may be situated, designating what lands are required for the use of said road or roads, and stating as near as can be ascertained who are the owners or claimants of said lands; whereupon the Chief-Justice shall appoint a day, not less than twenty days, nor more than forty days from the time of filing said application, for the parties interested to appear before him, to ascertain the value of such lands, and the amount of damages to which the owner may be entitled; twenty days notice of the time and place of such hearing shall be given by notice posted up in three public places in the county, by written notice delivered to such owners or claimants as are residents of the county, and on the day so appointed by the said Chief-Justice, or on any subsequent day to which such proceedings may be adjourned, and if the parties cannot agree upon a valuation, then the Chief-Justice shall, with the assistance of the clerk of the county court, draw from the jury boxes of said county the names of six disinterested free-holders of, and residents of said county, and said Chief Justice shall issue a subpoena directed to the Sheriff or other legal officer, commanding him to summon said jurors to appear before him at his office on a day to be named in such subpoena; on the day named for the meeting of said jury, if the whole number do not attend, the Chief-Justice shall in like manner draw other jurors to supply the places of those who fail to attend; who shall be subpoenaed to attend forthwith, and when a jury of six shall be made up, the Chief-Justice shall administer to them an oath

or affirmation, well and truly to enquire, and a true appraisement make of the cash value of the land or lands sought to be condemned by said corporation, under the provisions of this act, and the damages which the owner or claimant may sustain in consequence of said road. The said jury or any member thereof shall have power to examine on oath or affirmation, to be administered by any of said jurors, all such witnesses as may be brought before them by any party interested, and may continue their session from day to day not exceeding three days; a majority of said jury shall agree to the appraisement, which shall be in writing and signed by those who agree to it, and shall contain a particular description of the land or lands appraised, said appraisement shall be returned to, and recorded in the office of the county clerk of the county court in which the land is situated; upon payment of the amount of such appraisement to the owner of the land appraised, or to the county Treasurer of the county in which the land is situated, for the use of the owner or claimant, said land shall be considered as condemned and appropriated to the use and benefit of said corporation for the purposes contemplated by this act. Should the majority of the jury not be able to agree on an appraisement, other jurors shall be drawn and subpoenaed, and proceed in the like manner as the original jury, until an appraisement is made. The said jurors shall each be allowed one dollar and fifty cents per day for their services, and they shall assess a reasonable amount for the costs of the proceedings directed by this section, including their own pay, which shall be paid by said corporation to the Chief-Justice for the use of the parties for whom it is assessed.

Sec. 8. That said company may acquire by purchase, donation or in payment for stock, such real estate as the Commissioners or Directors may think desirable to aid in the construction or maintenance of said road, and such real estate so acquired, as well as the road itself, may be mortgaged by a vote of three-fifths of the Directors, for the purpose of raising money on their bonds for the construction of said road.

Sec. 9. That said company shall have power to borrow money on their bonds secured by mortgage as in the preceding section, at such rates of interest as the Directors may deem expedient.

Sec. 10. That a vote of two-thirds of the stockholders shall be sufficient at any time to remove any board of Directors and appoint others in their stead: provided, that any meeting for such purpose shall only be called by a notice to that effect,

published for four successive weeks in the nearest newspaper, and signed by one-fourth of the stockholders.

Sec. 11. That the first election for Directors shall take place at such time as the Commissioners shall appoint within nine months from the 1st day of February, 1853, and be conducted in such manner and form as they shall adopt, adhering to the rights of the stock-holders and the general provisions of this charter, the place of said first election being the town of Indianola, and that all subsequent elections shall take place in twelve months after the first election, and any vacancy by death, resignation or otherwise shall be filled by the Directors.

Sec. 12. That the counties and corporate towns through which the road may pass shall have power to take one-third part of the capital stock of the company, and issue their bonds to the company for the same, bearing eight per cent. interest payable semi-annually; provided, the question of taking the same be first submitted to the legal voters of the said towns and counties, and two-thirds of the votes cast be in favor of said subscription; and provided, that due notice of such meeting of the legal voters be published by the county court and town council for at least four weeks before said meeting, and that the said towns and counties shall have power to levy and collect such taxes upon the real and personal estate of said towns and counties, not being more than twenty-five cents annually, upon every one hundred dollars of taxable property, as may be necessary for the punctual payment of the interest and principal of said bonds.

Sec. 13. That said company shall also have the right, provided, no other chartered company now existing shall make a railway or commence the construction of a railway within one year from the first day of February, 1852, within twenty miles of a direct line from the town of Indianola to Victoria, to change their Plank and Turnpike road into an iron railway for the running of cars by steam, should they hereafter deem the Plank road insufficient, with such rights, privileges and guarantees, and under such restrictions, so far as the same are applicable, as are prescribed by "an act to incorporate the San Antonio Railroad company," approved September 5, 1850, and the act supplementary thereto, approved February 14th, 1852.

Sec. 14. That the company shall be, and are hereby authorized to charge and collect the following rates of toll, viz: for ox wagons with two or four yoke of oxen, five cents per mile; for horse wagons with four or six horses, five cents per mile;

for ox carts one or three yoke of oxen, four cents per mile; for pleasure carriages, or two horse wagons, four cents per mile; for man and horse one cent per mile; for horses, mules, cattle, each one-half cent per mile.

Sec. 15. That all real estate not used by said company in actual occupation for the ordinary purposes of the road, shall be alienated within ten years from the granting of this charter, or shall become forfeited to the State.

Sec. 16. That if this road is not commenced within one year from the first day of February, 1853, and one-half thereof completed within two years thereafter, then this charter shall be null and void.

Approved, February 7, 1853.

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### CHAPTER XIII.

An Act to authorize Stephen P. Holingsworth and his associates to construct a Bridge across the Sabine River.

Section 1. Be it enacted by the Legislature of the State of Texas, That Stephen P. Hollingsworth and other persons whom he may choose to associate with him be, and they are hereby authorized to construct a bridge across the Sabine river, at any point he or they may select, in the counties of Rusk and Harrison, between a ferry on said river known as Walling's Ferry, and another known as Ramsdale's Ferry; where he or they may be the owner of the lands on either side of the said river; provided, that he or they shall cause to be paid or pay to the owner or owners of said lands on the opposite side of said river, all such damages as he or they may sustain by the construction of said bridge, to be ascertained in the following manner, to wit: first, the parties shall have the right to agree upon the amount of damages; second, if they cannot agree as to the amount of damages, then it shall be lawful for the said Hollingsworth and his associates, or the owner or owners of the land on the opposite side of the river, or both, to apply to the county court of the county in which such lands may be situated, for the appointment of three Commissioners to assess the damages sustained by the owner or owners of said land, and it shall be the duty of said court to appoint said Commissioners to assess the damages, and said Commissioners, or a majority of them, shall proceed to assess the damages, and in a

reasonable time make their report to said court in writing, under oath, which report shall be recorded in the office of the clerk of the county court, and upon the payment of the amount of damages assessed by the Commissioners, and all costs incurred by said appointment, to the person or persons entitled to receive the same, or in case the person or persons entitled to receive the same shall refuse to receive the amount so adjudged, then and in that case the amount of damages shall be paid or deposited with the clerk of the county court, by the said Hollingsworth or his associates, and after the payment of the amount of damages as aforesaid, in either case, then the said Hollingsworth and his associates shall have the right to construct the said bridge as aforesaid, and shall have the right of way to open a road from the same to the town of Marshall in Harrison county, and also to the town of Henderson in the county of Rusk, and also through the county of Harrison in the direction of Shreevesport, in the State of Louisiana; provided, that said bridge shall be so constructed as not to obstruct or hinder the navigation of said river.

Sec. 2. That the rates of toll to be charged and collected by said Hollingsworth and his associates, shall be fixed by the county court of the county of Rusk, and the license tax shall be levied by the same court; provided, that said Hollingsworth and his associates shall not be required to pay a license tax in but one county on said bridge.

Sec. 3. That said Hollingsworth and his associates shall, in all respects, be governed by the laws of this State regulating roads, bridges and ferries, when the same shall not conflict with the provisions of this act.

Sec. 4. That said Hollingsworth and his associates shall have the right to the use of a sufficient quantity of timber for the construction of all causeways and bridges that may be necessary on the roads mentioned in section one, to be taken from the lands adjacent to said road or roads, for which they shall pay a reasonable compensation, to be determined as before provided, by the county court, in case any party shall object to the cutting of timber for such purposes.

Sec. 5. That said parties shall commence the building of said bridge within one year from the passage of this act, and have the same completed within five years, and in case of failure thereof, they shall forfeit all privileges granted by this act.

Sec. 6. That this act shall take effect and be in force from and after its passage.

Approved, February 7, 1853.

## CHAPTER XIV.

**An Act to Incorporate the Mount Enterprise Male and Female Academy.**

Section 1. Be it enacted by the Legislature of the State of Texas, That William H. Estell, David Collins, A. P. Galloway, M. D., Charles Vincent, Bird Linthicum, William Hays, John L. Salmon, Robert E. Wynn, S. W. March, M. D., G. Booker, Thomas Jones and William Horle, M. D., and their successors in office be, and they are hereby constituted a board of trustees of an institution of learning established at Mount Enterprise in the county of Rusk, which said institution is hereby incorporated by the name of the Mount Enterprise Male and Female Academy; by which name it may sue and be sued, plead and be impleaded, and buy and sell property both real and personal and mixed, hold and enjoy the same; the said institution may have a common seal for the transaction of its business, which seal it shall have power to alter at pleasure.

Sec. 2. That five of the trustees shall constitute a quorum to do business; they shall have power to make such by-laws and regulations as they may think necessary for the government of the institution and its finances; provided, such by-laws and regulations are not inconsistent with the United States, and the laws and constitution of this State; they shall also have power to elect their own officers; they shall also have power to elect a President of said institution, who shall have authority to appoint or dismiss his assistants; it shall require a majority of the board to dismiss or remove the President, and in case of the death or resignation of the President, to elect a successor.

Sec. 3. The board of trustees shall hold their offices during good behaviour, and that in case of death, resignation, permanent absence or inability to perform the duty of a trustee, they shall have power to fill the vacancy; provided, that if three of the members of the board be at the time of filling such vacancy members of the same denomination or sect, a fourth shall not be selected from the same denomination or sect; and be it further provided, that no member of the board shall forfeit his right as trustee in consequence of any change of his religious views or relations; and, further provided, that five of the members of said board shall be and reside within the limits of said institution.

Sec. 4. That the board of trustees shall have power to regu-

late and fix the salaries of all officers connected with said institution, and to regulate the price of tuition and the length of the sessions.

Sec. 5. That the President of the Academy shall be ex-officio President of the board of trustees, and shall have power to convene said board whenever he may think proper, but shall have no vote except in case of a tie; and no other member of the board shall hold any office in said institution; provided, that in case the President should refuse to call the board together at any time upon the application of at least three of the members of the board, then, and in that case, they shall have the right to do so, and elect a President pro tem. to preside.

Sec. 6. That no religious test shall be required of any member of the board, officer of the institution, or student.

Sec. 7. That all donations and bequests to said institution shall be good and binding although the corporate name of the same may not have been properly stated by the person making such bequest or donation.

Sec. 8. That the seal of the corporation with the attestation of the Secretary and the signature of the President, or in his absence, five of the board of trustees shall be sufficient to authenticate any act of the corporation.

Sec. 9. That said institution shall not hold more than fifty thousand dollars worth of property, over and above the institution, buildings and ground on which they may be situated, and the funds belonging or in anywise appertaining to said Academy shall not be diverted from the object for which the same was donated, nor shall any man or person be allowed to vend any ardent spirits under the penalty of one hundred dollars for each and every such offence, within one mile of said Academy.

Sec. 10. That this act take effect from and after its passage.

Approved, February 7, 1853.

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## CHAPTER XV.

An Act for the relief of the heirs of L. Gilbert.

Whereas, Thomas Johnson, Esq., District Attorney of the Third Judicial District, for the Republic of Texas, was employed by Anson Jones, President of the Republic, to defend two certain suits brought in the District Court of said Dis-

trict, by Empresarios, against the President of the said Republic for large amounts of land, and the said Anson Jones, then President, agreed to pay said Johnson for his services the sum of five hundred dollars, each suit; and whereas, the said Johnson assigned to L. Gilbert five hundred dollars of his said fees, and received from said Gilbert, then Treasurer of Washington county, the consideration therefor, and agreed to have that amount placed to the credit of said Gilbert upon his account as Treasurer aforesaid, who was then, and still is indebted to the State of Texas; and whereas, said Johnson and Gilbert both departed this life without having the said amount credited as aforesaid; and whereas, said Johnson did faithfully attend to said suits and defended one of them successfully, and defeated said suit; therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That the Comptroller be, and he is hereby authorized to allow the estate of L. Gilbert, former Treasurer of Washington county, a credit of five hundred dollars, for the claim of Thomas Johnson, late District Attorney of the Third Judicial District, for his services in attending to the said Empresario's suits against the Republic of Texas.

Approved, February 7, 1853.

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## CHAPTER XVI.

### An Act to incorporate the town of Richmond.

Section 1. Be it enacted by the Legislature of the State of Texas, That the citizens of the town of Richmond, in Fort Bend county, be, and they are hereby declared a body corporate, by the name and style of the corporation of the town of Richmond, and by that name may sue and be sued, plead and be impleaded, and may hold and dispose of real and personal estate; provided such real property is situated within the limits of said corporation.

Sec. 2. That the limits of said corporation shall be as follows: To commence at the upper river corner of Morton's labor, running back from the river with the upper line of said labor, and extending continuously to a point one mile from the court house; from thence across the Borden tract to a point one mile from the court house; from thence in a direct line to the



present river corner of Mrs. L. H. Long; from thence to run with the river bank to the place of beginning.

Sec. 3. That an election for Mayor, five Aldermen, a Treasurer, Recorder and a Constable, shall be held as soon as practicable, after the passage of this act, by the Chief Justice, or one of the Commissioners of Fort Bend county, according to the laws governing elections generally, and annually thereafter for a similar purpose, an election shall be conducted by the Mayor, or a majority of the Aldermen acting at the time of such election, and the persons elected shall continue in office one year, or until their successors are duly qualified. And the annual elections for Mayor and Aldermen shall be held at such place in the town of Richmond as may be designated by the board, for the convenience of the people.

Sec. 4. That whenever a vacancy shall occur in the office of Mayor, a majority of the Aldermen acting shall order and conduct an election to fill such vacancy, and the person so elected shall hold his office until the next regular election, or until his successor be duly qualified, and in case of the death, resignation or removal of any Alderman, Treasurer or Constable, the Mayor shall order an election under such rules and regulations as may be prescribed by the board, to fill such vacancy.

Sec. 5. That no person shall be eligible to any office under the provisions of this charter who is not a citizen of this State, and a resident within the limits of the corporation; nor shall any person have a right to vote for officers, who is not a citizen and resides within its limits.

Sec. 6. That the Mayor shall be President of the Board of Aldermen; that three of the members of said board shall constitute a quorum to transact business, and that said board shall enact such by-laws for the government of said town, not inconsistent with the constitution and laws of the State, as may be deemed proper, and may impose fines for the disobedience of the same, not exceeding one hundred dollars for each offence.

Sec. 7. That the board of Aldermen shall have and exercise control over the public squares and streets of said town, and may compel all free male citizens, ministers of the Gospel excepted, over the age of seventeen years, and under that of forty-five, to work on the same; provided, that such person shall not be required to work more than six days in any one year, and shall be exempt from other road duty in said county, and the board may impose such fines on defaulters as they may

deem necessary, in which they shall be governed by the laws of this State regulating roads.

Sec. 8. That the board of Aldermen shall have power to levy a tax on all persons and property, both real and personal, in said town, subject to taxation by the laws of the State; provided, that the tax on the property shall not in any one year exceed one-half of one per cent. ad valorem on such property, and no tax shall be levied unless by a vote of two-thirds of said board; which shall be assessed and collected by the Constable, in the same manner as the State tax is collected.

Sec. 9. That all offences against the by-laws be presented before the Mayor, and governed by the law governing Justice's Courts; and the Constable shall execute and return all writs issued by the Mayor, in the same manner as is provided by the law defining the duties of Constables.

Sec. 10. That the Constable shall give bond and security as required by other Constables, and shall have the same powers, and be entitled to the same fees for similar services.

Sec. 11. That the Mayor of said town shall be entitled to such fees as may be allowed Justices of the Peace for similar services, together with such other compensation as may be allowed him by said board of Aldermen.

Sec. 12. That the Aldermen shall be entitled to one dollar for each day they may be required to sit as such Aldermen.

Sec. 13. That the Treasurer shall keep safely all the monies of said corporation; shall pay out the same upon the order of the board, and he shall give bond with security payable to the Mayor, in such sum as may be deemed proper, conditioned for the faithful performance of his duties, to be approved by the board, and he shall be allowed such compensation as may be specified by the board of Aldermen.

Sec. 14. That the mayor be, and he is hereby vested with all the power and jurisdiction of a Justice of the Peace within the limits of said corporation.

Sec. 15. That this act take effect and be in full force from and after its passage.

Approved, February 7, 1853.

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## CHAPTER XVII.

An Act to incorporate the city of Brownsville.

Section 1. Be it enacted by the Legislature of the State of

Texas, That the citizens of Cameron county, in the State of Texas, residing within the limits of that section of territory, situated and lying on the left margin of the Rio Grande, in the county of Cameron aforesaid, formerly a part of the town tract of four leagues of land (ejidos) of the city of Matamoras, in the Republic of Mexico, be, and they are hereby declared a body politic and corporate, by the name and title of the "City of Brownsville," and by that name may sue and be sued, implead and be impleaded, in all courts, and in all actions and matters whatsoever, and by the same name may, by deed of gift, grant or purchase, hold and dispose of any estate, real or personal, within the limits of said city, for the use of the corporation; and may have a common seal which they may alter and change at pleasure.

Sec. 2. That it shall be the duty of the citizens of said corporation to elect a Mayor, nine Aldermen, a Marshal, Treasurer, Secretary, and an Assessor and Collector of taxes.

Sec. 3. The Mayor, with a majority of said Aldermen, shall constitute a quorum for the transaction of business; they shall form the City Council, and the Mayor shall preside at their meetings.

Sec. 4. The Treasurer, Marshal and Assessor and Collector of taxes shall give bond to the Mayor of said city in such sum as the said Council shall determine, which bonds shall be for the faithful performance of their respective duties, as they shall be from time to time defined by said council, and if either said Treasurer, Marshal or Assessor and Collector of taxes, shall refuse or neglect to give bond as required by said Council within such reasonable time as they may be required by said Council, such Treasurer, Marshal or Assessor and Collector of taxes may be removed, and his office declared by said Council to be vacant, and a new election ordered to supply such vacancy. It shall be the duty of the Marshal to attend upon the Council and execute all process to him lawfully directed by the Mayor, and generally to do and perform such duties as are performed by Constables in courts of Justice's of the Peace.

Sec. 5. That the City Council shall have full power to make and pass such by-laws and ordinances as they shall deem necessary to maintain the cleanliness and salubrity of said city, to insure the safety and convenience of passing in the streets, squares and alleys; to establish and regulate such common schools as they may direct, to organize and regulate a fire department for the purpose of extinguishing and preventing conflagrations; to prevent the storage of powder within the

limits of said city; to establish a system of police for the maintenance of public order and tranquility; to permit theatres, shows or other public amusements, under such regulations and restrictions as they may direct; to establish one or more market places, and to regulate the same; to take charge and superintendence of all streets, roads and alleys and ways, appoint the necessary overseers for the same, and to enforce labor thereupon in the same manner and with the same effect as such authority is now authorized by the county court; to enact all ordinances to carry this act into effect, and to fix such penalties thereto as they may determine; to appoint all subordinate officers necessary; to grant licenses to all billiard tables, coffee houses, groceries, or any place of amusement in said city, and to determine the amount to be paid for such licenses; to have and exercise the power of laying, levying and collecting taxes upon all subjects of taxation within their corporate limits upon which a tax may be levied by the State; provided, said tax shall not exceed in any one year one-fourth of the amount of the tax levied by the State upon such subjects of taxation, and to divide said city into three wards, and after the first election, there shall be elected three Aldermen for each ward.

Sec. 6. The Mayor shall have the power and concurrent jurisdiction of a justice of the peace, over all such criminal matters as may arise within said corporate limits, and which by existing laws are cognizable before a justice of the peace. He shall have jurisdiction over all penalties for violation of the ordinances of said city, and shall have the right to issue process, hear and determine suits arising from violations of city ordinances, and to enforce collection of judgments rendered thereupon by execution.

Sec. 7. The Mayor shall have the right to collect fees for services rendered according to the fees established for Justices of the Peace, and such other fees as are by law given to him, as such Mayor ex-officio, but shall have no other salary. The Marshal shall have and receive the fees of a Constable, but no other compensation for his service. The Treasurer shall be entitled to receive, and may retain such amount as the Council may in its discretion allow, not exceeding five per cent. on all moneys that may come into his hands by virtue of his office. The Assessor and Collector shall be entitled to receive and may retain in his hands such amount as the Council may in its discretion allow, not exceeding five per cent. on all moneys that may come to his hands. The Secretary shall be entitled to

charge the same fees as those allowed by law to county clerks for similar services, and the Council shall be allowed to expend any sum not exceeding two hundred dollars in one year for Attorney's fees.

Sec. 8. That all property together with all rights in action and claims to property, of any and all kinds, which were held, owned, occupied and enjoyed by the citizens of said city, under the act entitled "an act to incorporate the city of Brownsville," and which act was approved January 24, 1850, are hereby vested in the citizens of Brownsville, and all liabilities incurred by said citizens under said act of incorporation, shall stand and be against the property vested in said citizens by this act.

Sec. 9. That the first election shall be held for the officers under this act, under the direction of the Chief-Justice of said county of Cameron, after having given ten days notice thereof, the returns shall be made to the Chief-Justice on the second day after the election; he shall thereupon open the returns and give certificates of election to those entitled to the same. The election for all officers shall be held annually thereafter, under the direction of the Mayor, at least twenty days before the expiration of the term of office, and in case of vacancy by death, resignation or otherwise, the vacancy or vacancies shall be filled by new elections to be directed by the Mayor, and in case the office of Mayor shall be vacant, then the Aldermen shall elect one of their own body to act as Mayor until the next annual election. After the division of said city into wards, the election of officers under this act shall be held in the several wards. The city council shall appoint the presiding officers. The election shall be conducted in conformity with the law regulating elections. The returns shall be made to the City Council within three days after such elections, the city Council shall thereupon open the said returns, examine the same and give certificates of election to those found duly elected.

Sec. 10. That no person shall be eligible to any office in this corporation, or entitled to vote for city officers, unless he be a citizen of this State, and shall have resided in the corporation limits of the city for at least six months next preceding the election.

Sec. 11. That all laws and parts of laws conflicting with this act, are so far repealed as not to interfere with this act.

Sec. 12. That this act shall be in force from and after its passage.

Approved, February 7, 1853.

## CHAPTER XVIII.

An Act supplementary to An Act to incorporate the Vicksburg and El Paso Railroad Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That so much of the first section of the above recited act be so changed as to read as follows, to wit: That the name of L. C. Clopton be stricken from said section, and in lieu thereof, the names of Joseph McDougal, Thomas H. Rogers, Adam Sullivan, Josiah Starr, C. D. Holbert, Mason Mosely and Jacob Fisher, be incorporated in said section.

Sec. 2. That so much of the seventeenth section of the above recited act, be so modified as to read as follows, to wit: That the first meeting of the Commissioners or directors, appointed by this act, shall be held at such times and places as they may think proper, said Directors may act in person or by proxy.

Sec. 3. That all laws and parts of laws that conflict with the provisions of this act, be and the same is hereby repealed, and this act take effect from and after its passage.

Approved, February 7, 1853.

## CHAPTER XIX.

An Act supplementary to the acts to establish the Galveston and Red River Railway Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That the preliminary action of Ebenezer Allen and others associated with him, as Commissioners of the Galveston and Red River Railwaw Company, in commencing the survey and grade of said Railway, at the city of Houston, is hereby confirmed.

Sec. 2. Said company is also hereby further authorized and empowered to extend said Railway to the city of Galveston, and also to make and construct simultaneously with the main Railway, described in the original acts establishing said company, a branch thereof towards the city of Austin, under the same restrictions and stipulations, provided in said original

acts, and subject to the rights of the State, to regulate the tolls by general laws.

Sec. 3. This act shall take effect immediately.

Approved, February 7, 1853.

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## CHAPTER XX.

An Act for the relief of certain persons therein named:

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Landoffice be, and he is hereby authorized and required to issue certificates for land to John Sise, for six hundred and forty acres of land; to Thomas Jones, his heirs or assigns, for one-third of a league of land; to the heirs of Samuel McEarly, for one labor of land; to Butler Hughes, for six hundred and forty acres of land; to James Morris, one third of a league of land; to Geo. W. Parrish, three hundred and twenty acres of land; to Russel Gorman, three hundred and twenty acres of land; to G. W. Browning, one-third of a league of land; to Jackson J. Walker, three hundred and twenty acres of land; to Charles R. Slaughter, three hundred and twenty acres of land; to William Middleton, his heirs or assigns, six hundred and forty acres of land; to Newton Kimbro, his heirs or assigns, one league and labor of land; to James Wallace, his heirs or assigns, one league and labor of land; to Herschell Corzine, his heirs or assigns, one league and labor of land; to the heirs of Thomas Hamilton, one-third of a league of land; to H. K. Hardin, his heirs or assigns, one-league and labor of land; to Jno. Hughes, three hundred and twenty acres of land; to the heirs of John C. Sullivan, three hundred and twenty acres of land; to the heirs of Lilly or Lyla Forsyth, one league and labor of land; to the heirs of Eli W. Lawler, twelve hundred and eighty acres of land; to Edward Morrison, six hundred and forty acres of land; to the heirs of Albert Jackson, 'six hundred and forty acres of land; to Margaret Clark, six hundred and forty acres of land; to Andrew R. Jones, three hundred and twenty acres of land; to Mary Anthony, alias Mary Collins, six hundred and forty acres of land; to the heirs of Hiram Friley, one league and labor of land; to Matthew Cartwright, two-thirds of a league and one labor of land; to William McCoy, six hundred and forty acres of land; to Carl Dorr, three hundred and twenty acres of land; that the certificate issued to Silas M.

Grace by the Board of Land Commissioners in and for the county of Harrison, on the fifth day of June, 1843, for twelve hundred and eighty acres of land be, and the same is hereby confirmed and made good, and that the Commissioner of the General Landoffice is hereby directed to issue a patent to said Grace on any location which has been or may be made by virtue of said certificate, on vacant and unappropriated lands; to Elizabeth Berry, widow of William Landrum, one league and labor of land; to James W. Manning, one-third of a league of land; to the heirs of Norman Austin, one-third of a league of land; to Jno. T. Davidson, one-third of a league of land; to William R. Willis, one league and labor of land; to William Forbes, three hundred and twenty acres of land; to the heirs of Edward Little, eight hundred and thirty-six acres of land; to John Stryker, one league and labor of land; to Levin S. Largent, six hundred and forty acres of land; to Patrick May, one-quarter league of land; to the heirs of George Creath, one-third of a league of land; to E. S. C. Robertson, administrator of Sterling C. Robertson, deceased, one league and labor of land, headright of deceased; to Robert Tippet, three hundred and twenty acres of land; to the heirs of Archibald Swords, one-third of a league of land; to John H. Bostick, one-third of a league of land; to G. C. Blackburn, three hundred and twenty acres of land; to Cyrus W. Egery, one-third of a league of land; to Thomas Dean, one-third of a league of land; to Francis Moore, Jr., two-thirds of a league and one labor of land; to Robert English, three hundred and twenty acres of land; to George Joy, six hundred and forty acres of land; to Omy Weir his heirs, or assigns, certificate for three hundred and twenty acres of land, amount of conflict of Omy Weir's survey with W. Prissick's survey; to Maria Jesusa Trevinio, one league and labor of land; to the heirs of T. Benson, one-third of a league of land, confirmation of six hundred and forty acres of land, certificate number two hundred and twenty-four, issued in Fayette county to Isaac Mullens in consequence of clerical error in its issue; to Joseph Bays, one league and labor of land; to the heirs of Richard Hall, one-third of a league of land; to the heirs of Shadrach Coody, deceased, six hundred and forty acres of land; to David Andrews, his heirs or assigns, one league and labor of land; to Warren Lyons, three hundred and twenty acres of land; to the heirs of Guadalupe Martinez, formerly a resident of Nacogdoches, one league and labor of land; to Daniel Parker, one-third of a league of land to which he is entitled as an



augmentation to the heirs of Samuel P. Williams, one-third of a league of land; to James Crossland, six hundred and forty acres of land; to the heirs of Wesley Fisher, deceased, one league of land; to the heirs of John Norman, deceased, one league and labor of land; to the heirs Walker Reid, twelve hundred and eighty acres of land, for headright and military services; to the heirs or assigns of Christopher Vandevere, deceased, for two-thirds of a league and labor of land, by virtue of certificate No. 117, Second Class, issued to him by the Board of Land Commissioners of Montgomery county; to William H. Kennedy, eight hundred and thirty-six acres of land; to the heirs of Daniel W. Cloud, six hundred and forty acres of land; to the heirs of Joseph Bayless, six hundred and forty acres of land; to the heirs of Peter J. Bailey, six hundred and forty acres of land.

Sec. 2. That no certificate which may be issued under the provisions of this act to the heirs of persons deceased, shall be sold by any Administrator or otherwise, until the same shall have been located, surveyed and patented.

Sec. 3. That no certificate shall be issued under the provisions of this act, when a certificate for a like quantity of land, or in satisfaction of a claim to land has been previously issued or granted by any authority of the Republic or State of Texas, in the name of, or upon the rights or claims of any person named herein, and any certificate which may be issued contrary to the provisions of this section shall be null and void.

Sec. 4. That this act take effect and be in force from and after its passage.

Approved, February 7, 1853.

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## CHAPTER XXI.

### An Act to incorporate the town of San Patricio, in the county of San Patricio.

Section 1. Be it enacted by the Legislature of the State of Texas, That the citizens of the town of San Patricio be, and they are hereby declared a body politic and corporate, and by that name and style of the corporation of the town of San Patricio, and by that name may sue and be sued, plead and be impleaded, and may have a common seal and change the same at pleasure, and may hold and dispose of real and per-

sonal property; provided, the same is within the limits of the corporation.

Sec. 2. That the boundary and limits of said town, and within which the said corporation shall exercise lawful jurisdiction, shall include and comprehend all that tract of land heretofore originally granted to, and composing said town, by whatever name it may have been designated.

Sec. 3. That the first election under this charter shall be held by the Chief-Justice of the county of San Patricio, (after giving ten days notice under the laws now regulating elections) for one Mayor and four Aldermen, and annually thereafter by the Mayor and two Aldermen, or by three Aldermen in case of the absence of the Mayor, or vacancy in that office, and the persons so elected shall continue in office for one year, or until their successors are duly qualified, and in case a vacancy shall occur in the office of Mayor, any three Aldermen shall order and conduct an election to fill such vacancy, to serve until the next succeeding annual election, or until his successor shall be duly qualified, and that if the office of Alderman shall become vacant from death or otherwise, the board shall have power to appoint a successor to fill the unexpired term of such Alderman.

Sec. 4. No person shall be eligible to the office of Mayor or Aldermen, who is not a citizen and a free-holder, householder, or resident in said town, and has not resided six months immediately preceding the election within the limits of said town.

Sec. 5. The Mayor shall be President of the board, and three Aldermen shall constitute a quorum for the transaction of business, and said board may enact such by-laws for the government of said town, not inconsistent with the laws of the State, as may be deemed proper, and may inflict such fines not exceeding one hundred dollars, as may be considered necessary.

Sec. 6. That the board shall have entire control over the streets of said town, may order new streets to be laid out at their discretion, and shall be governed in such cases by the laws of the State relative to roads and highways. That all free males between the ages of eighteen and forty-five years, shall be liable to work on the streets; provided, no person shall be compelled to work more than ten days in any one year, and the board may impose such fines on said defaulters as they may deem necessary, not inconsistent with the laws of the State.

Sec. 7. That the board shall have power to levy a tax on

all persons and property real and personal, within the limits of said town subject to taxation by the laws of the State; provided, said tax shall not in any one year exceed one per centum advalorem, on such property, and it shall be assessed and collected (by an officer to be appointed by the board,) in the same manner as the county tax, and the board shall also have power to levy a tax on all taverns, tippling houses, billiard tables, and ten pin alleys in said town.

Sec. 8. That all the public property within the limits of said town shall belong to said corporation, and the board may dispose of it in such manner as they may deem to the best interests of said town.

Sec. 9. The board shall have power to constitute and appoint such officers as may be necessary, and to regulate their duties and compensation, and the officers so appointed may be removed at the pleasure of the board, and may be required to give bond with security, payable to the Mayor and his successors in office, in such sum as may be deemed requisite for the faithful performance of their several duties of said offices to which they may be appointed.

Sec. 10. That if from any cause the annual election should not be held at the regular time, the Mayor shall call another election immediately, giving at least five days notice, and all elections for Mayor and Aldermen shall commence at ten o'clock A. M., and shall close at 2 o'clock P. M., and all persons qualified to vote for members of the Legislature, who shall have resided six months immediately preceding an election in the said town, shall be entitled to vote for Mayor and Aldermen.

Sec. 11. That the Mayor be, and he is hereby invested with all the powers of a Justice of the Peace within the limits of said town, and that all offences against the by-laws shall be prosecuted before the Mayor in such manner as is provided by law in the act organizing Justice's courts, and defining the powers and jurisdiction of the same, and the Sheriff or any Constable within the limits of the town shall execute all writs directed to him by the Mayor.

Sec. 12. That the Treasurer shall keep safely all the money of said corporation, and shall pay it out to the order of the board, and shall do such other duties as may be assigned him by the board; he shall give bond and security payable to the Mayor, in such sum as the board may deem proper, conditioned for the faithful performance of the duties of his office, to be

approved by the Mayor, and shall receive such compensation as may be allowed him by the board.

Sec. 13. That so much of an act entitled "an act to incorporate the city of San Antonio, and other towns therein named," together with the amendments and supplements thereto, so far as the same relates to the town of San Patricio, and all laws and parts of laws conflicting with this act be, and the same are hereby repealed, and that this act take effect and be in force from and after its passage.

Approved, February 7, 1853.

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## CHAPTER XXII

### An Act for the relief of Jim Shaw, a Delaware Indian.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Auditor and Comptroller be, and they are hereby required to audit and allow the claim of Jim Shaw, a Delaware Indian, for six hundred dollars, expended by him in the years 1840 and 1841, in the purchase from the Comanche Indians of Mrs. Tidwell and her three children, and that this act take effect from and after its passage.

Approved, February 7, 1853.

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## CHAPTER XXIII.

### An Act for the relief of the heirs of Stacy Dailey.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Landoffice be, and he is hereby required to issue to the heirs of Stacy Dailey, a certificate for one league and labor of land, which may be surveyed and patented as other first class head right certificates, and that this act take effect from its passage.

Approved, February 7, 1853.

CHAPTER XXIV.

An Act to incorporate the city of Indianola.

Section 1. Be it enacted by the Legislature of the State of Texas, That the citizens of Indianola, in the county of Calhoun, be a body corporate by the name and style of "the City of Indianola," and by that name may sue and be sued, plead and be impleaded, in all courts and in matters and actions whatsoever, and by that name may purchase, hold and dispose of any estate, real or personal, and may have a common seal, which they may alter or change at their pleasure.

Sec. 2. That the boundaries of said city and the limits within which said corporation shall exercise jurisdiction, shall begin on the north at the mouth of White's Bayou; thence down Matagorda Bay, so as to include the harbor in front of Powder Horn Bayou; thence with said Bayou and lake to a point one mile in a straight line south west from the said Bay of Matagorda; thence in a straight line to a point one mile due south-west from the mouth of White's Bayou; thence to the said place of beginning; provided, that whenever the proper courts of law shall decide that the titles of Benito Morales and Juan Cano are valid ones, all the lands within their original grants which by this act are placed or described within the limits of said corporation, shall be considered as stricken out therefrom and altogether exempted from all the provisions of this charter.

Sec. 3. That there shall be elected by the citizens in said corporate limits, annually, by ballot, on the first Monday of January, in each and every year, one Mayor, one Recorder and eight Aldermen, to serve one year, or until their successors are qualified, who shall constitute the city Council; which election shall be held by the Mayor and two Aldermen, except the first, which shall be held by the Chief-Justice of the county, as early as practicable after the passage of this act, by giving ten days public notice. The city Council, immediately after being qualified, shall appoint one Treasurer, one Assessor and tax Collector, one Marshal, and such other officers as may be necessary to carry out the provisions of this charter. The Treasurer and Assessor and Collector shall each give bond and security for the faithful discharge of their duties, in such an amount and form as the Council may determine. At the first election for Mayor, Recorder and Aldermen, every resident of the city shall be entitled to vote who has resided six months therein, previous to the election, and has paid a State and county tax.

Sec. 4. That any resident of the city who has resided therein for six months preceding the election, and has paid a tax on real estate or on any business upon which a tax has been levied by the Council, shall be entitled to vote for the Mayor, Recorder and Aldermen, and shall be eligible to hold office. No person shall hold the office of Mayor or Recorder unless he be a qualified voter for members of the Legislature.

Sec. 5. That before entering upon the discharge of the duties of their respective offices, the Mayor, Recorder and Aldermen and other city officers shall take and subscribe an oath to perform the duties thereof to the best of their abilities, which oath the Mayor shall take before the Chief-Justice of the county or a Justice of the Peace, and each of the other officers before the Mayor or Recorder.

Sec. 6. That the Mayor and Recorder shall have all the authority and power of Justices of the Peace, and concurrent jurisdiction, civil and criminal, and the Marshal all the authority of a Constable in the county.

Sec. 7. That the Council shall have full power and authority to make and pass such ordinances and by-laws as they shall deem necessary to maintain the cleanliness of the city, to secure the safe and convenient passage of the streets, sidewalks and public ways, to prevent encroachments on the public grounds, works or city property, order and determine the construction of the sidewalks at the cost of the proprietors of the lots in front of which the improvements are to be made, to establish an active inspection over the conduct of slaves, to determine in what part of the city wooden buildings and wooden chimneys may be erected; to regulate the keeping and sale of gunpowder within the city; to determine the means to be resorted to in order to prevent and extinguish conflagration; to establish one or more market places, and to determine the mode of inspection of all comestibles sold publicly; to regulate every thing relating to bakers, butchers, tavern keepers, oyster houses, restaurats, eating houses and grog shops, except the prices of the articles vended; and to control all public wharves, landing places and bridges within the city limits; to fix a uniform rate of drayage, taxes on carriages, omnibuses, hacks and other vehicles; to regulate the rate of fare on the same, and to regulate the price of wharfage and harbor dues; to appoint a city guard or watch, and make such regulations regulating the discipline and management thereof, as may be necessary; to fix uniform prices for license to pedlars and hawkers; to erect all public buildings, and to make all other regulations which

may contribute to the better administration of the affairs of said corporation, as well as for the maintenance of the tranquility and safety of the same; provided, that no ordinance of said corporation shall be enforced that is contrary to the laws of this State or of the United States. And all official acts of said corporation shall be sanctioned by a majority of all the members present and voting, except the levying of taxes, which shall require the votes of two-thirds of all the members of said corporation.

Sec. 8. That no ordinances shall take effect or be in force until the same has been published for five days in the corporation.

Sec. 9. That the city Council shall have power to levy and collect a tax not to exceed one per centum ad valorem, on all lots and lands, and an ad valorem tax not to exceed one-fifth of one per centum upon improvements annually, and one-fourth of one per centum on all the slaves within the corporation, for municipal purposes, also a poll tax of one dollar each on all the males of the age of twenty-one years, who do not pay a tax on property.

Sec. 10. That the Council shall have power to levy and collect a tax not to exceed one-fourth of one per centum annually, upon all real estate within the limits of the corporation, for the express purpose of raising a school fund, and the proceeds of said tax shall be applied to no other purpose than that of advancing the cause of education in the town of Indianola.

Sec. 11. That a majority of the Aldermen shall constitute a quorum to do business. The Mayor shall preside at all the meetings of the Council, (except when prevented by sickness or otherwise, when the Aldermen present shall appoint one of their body to preside,) and shall convene the board whenever requested so to do by three of the Aldermen, in writing.

Sec. 12. That whenever any order, resolution, by-law or ordinance may be passed by the Council, and is disagreed to by the Mayor, it shall be inoperative, unless the same shall be passed by a majority of the whole number of Aldermen, taken by yeas and nays and recorded upon the journal of proceedings.

Sec. 13. That the city Council shall have power to appropriate so much of the revenue of the city to the improvement of the public roads within or without the corporation limits, leading into the city, as they in their wisdom may think proper and expedient.

Sec. 14. That all process emanating from the Mayor or Recorder may be executed by the Sheriff, any Constable of the county, or the city Marshal, in the same manner that similar process from the Justices of the Peace are executed.

Sec. 15. That after the expiration of the time prescribed by law for the payment of city taxes, the city Marshal or such officer as the Council may charge therewith, may proceed to seize upon any property, real or personal, the tax on which has not been paid, or that belongs to a delinquent tax payer, and after making publication in some newspaper in the city, or by posting at three public places in said city, if there be no paper, for twenty days, specifying the time and place of sale, with a description of the property, may sell to the highest bidder so much of said property as will pay the taxes thereon, or may be due from such delinquents, as the case may be, together with all costs, and the officer selling shall give the purchaser a certificate, stating the amount of tax and costs paid, and describing the property sold, which shall entitle the purchaser to a deed for said property at the expiration of twelve months, from the Mayor of the city; but such certificate may be redeemed in one year from the day of sale, by the owner of the property sold, or some person for them, by payment of double the amount of tax and costs paid by the holder, which payment may be made either to the city Treasurer for the use of the holder of said certificate, or to the holder thereof in person; but if the certificate of purchase be not redeemed in the time specified, then the holder may demand, and it shall be the duty of the Mayor to give a deed to such holder, conveying all the rights and interests of the person in whose name the property was assessed and sold, which deed shall be signed by the Mayor in his official capacity and countersigned by the Recorder under the city seal; provided, that none of such assessments or sales, or other action of said corporation shall ever be made to affect in any manner whatever the rights or titles of those persons who may hold lots or lands within the said corporation limits, under mesne conveyances from Juan Cano or Benito Morales, made in virtue of grants respectively issued to the said Cano and Morales by the State of Coahuila and Texas, and that nothing contained herein shall be so construed as a recognition of title in said Cano or Morales or their assigns.

Sec. 16. That whenever it may be deemed necessary the Council shall divide the city into a convenient number of wards, each ward to be represented by at least one Alderman.



Sec. 17. That the Council shall have power to assess and collect for the use of the city, an annual license tax upon all persons pursuing any trade, occupation or profession, upon which a license tax may be imposed by law, and shall have power to assess and collect a tax upon all public shows, circuses, or other exhibitions for money.

Sec. 18. That the city council shall have power to create a loan and negotiate her bonds to any amount not to exceed forty thousand dollars, for the benefit of the city; provided, that the purpose for which said loan is to be effected shall be made public, and a proposition distinctly submitted to the legal voters of the city and sustained by a vote of two-thirds thereof.

Approved, February 7, 1853.

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## CHAPTER XXV.

### An Act to establish the Texas Orphan Asylum.

Section 1. Be it enacted by the Legislature of the State of Texas, That there shall be established an Institution to be known and designated the "Texas Orphan Asylum."

Sec. 2. That the said Asylum shall have for its object the education of orphan children.

Sec. 3. That the students of said Asylum shall be taught some branch or branches of industry, to be regulated by the Trustees.

Sec. 4. That the following named persons are hereby appointed Trustees of said Asylum: J. Randolph Weir, James S. Hanna, R. J. Swearingen, H. H. Calvert, N. W. Bush, James W. McDade, W. S. Day, Thomas B. White, Miller Francis, D. C. Dickson and A. M. Lewis, who shall hold their office for four years from the passage of this act, and their successors shall be elected by the donors of said Asylum.

Sec. 5. That the said Trustees shall have power to locate said Institution, and transact all business connected with said Asylum.

Sec. 6. That the said Trustees shall elect one of their own body as President, and one to serve as Treasurer, who shall give bond for the faithful performance of his duty; and that the Trustees shall have power to appoint such Clerks, Agents or Professors, to serve as such, as they may deem proper.

Sec. 7. That the said Trustees shall have power to enact such by-laws as they shall desire; provided, said by-laws shall not

conflict with this act, or the Constitution of the State of Texas or of the United States.

Sec. 8. That when a vacancy shall occur in the board of Trustees in any way, such vacancy shall be filled by the Board, who shall serve until the regular election shall take place by the donors.

Sec. 9. That the President of said Board shall have full power to call an extra meeting whenever he shall deem such meeting necessary, and in the absence of said President, any three members of the Board shall have power to convene said Board; provided, said three members think such meeting requisite.

Sec. 10. A majority of said Board shall constitute a quorum.

Sec. 11. That the said board of trustees shall have a seal, such as a majority of the board shall select.

Sec. 12. That the Faculty and Trustees of said Asylum shall have full power to grant and confer any degree or degrees in the Arts and Sciences to any of the students of said Asylum, or any person or persons by them deemed worthy, as are generally granted and conferred in any college, and give diplomas or memorials thereof, signed by the Faculty of said Institution, and by the President and Secretary of said Board of Trustees, and sealed by the seal of the Asylum.

Sec. 13. That the Texas Orphan Asylum shall be entirely free from the control of any religious sect.

Sec. 14. That the names of those who contribute to said Institution be inscribed in a book, and that said names be preserved in the archives of the Institution.

Sec. 15. All donations and bequests made to said Asylum shall be good and binding, notwithstanding the misnomer of said Institution by the party making said bequest or donation.

Sec. 16. That this act take effect and be in force from and after its passage.

Approved, February 7, 1853.

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## CHAPTER XXVI.

An Act for the relief of John Conner, Delaware Chief.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Landoffice be, and he is hereby authorized and required to issue to John Conner, Delaware Chief, a certificate for one league of land,

which said certificate, when issued, may be located, surveyed and patented upon any of the vacant and unappropriated public domain of the State of Texas, upon the same terms and conditions as other certificates or land warrants, under the provisions of the general land law, which certificate shall not be sold or transferred by said Conner, but the land located by virtue thereof, shall be solely for the use of himself and family; provided, that such location or survey shall not be made within the limits of the Colony of the German Emigration company, hertofore Fisher and Miller's grant; and provided, that he shall not be required to pay dues or office fees thereon, and that this act take effect from and after its passage.

Approved, February 7, 1853.

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## CHAPTER XXVII.

### An Act to incorporate the Cold Spring Female Academy.

Section 1. Be it enacted by the Legislature of the State of Texas, That John R. Johnson, Westley Ross, Arnett Harold, John W. Saunders, Henry Jallet — Carnes, James Davis, — Slade, William Vance, James McCardle, — Lisle, John Manor, Wm. McCormick and their successors in office, be, and they are hereby constituted a board of Trustees of a Collegiate Institute near Cold Spring, in the county of Polk, to be known as the Cold Spring Female Institute, by which name they may sue and be sued, plead and be impleaded, buy, sell and hold property, real and personal and mixed, and the said Trustees may have and use a common seal for the transaction of their business.

Sec. 2. A majority of the Trustees shall constitute a quorum to transact all ordinary business of the said Institute. They shall have power to elect their own officers and to make their own by-laws; provided, such by-laws are not inconsistent with the provisions of this charter, or the laws or constitution of the State of Texas; and further provided, that it shall require the concurrence of two-thirds of said Trustees to elect or remove the president or any one of the professors.

Sec. 3. The Institute shall have power to confer the usual degrees upon females distinguished in science and literature, and upon deserving students, and to grant diplomas for the same; provided, that such diplomas shall be first signed by a majority of the faculty of said Institute.

Sec. 4. That said Trustees shall have the power of fixing the salaries of all officers connected with the Institute, and of filling all vacancies which may occur in their body.

Sec. 5. No religious test shall ever be required of any president, professor or tutor in said Institute.

Sec. 6. All donations and bequests made to said Institute, shall be good and binding, notwithstanding the misnomer of said Institute, on the party making the bequest or donation.

Sec. 7. The said Institute shall not hold real estate exceeding one hundred thousand dollars in value, and it shall never be under the control of any particular denomination of christians or religious sect.

Approved, February 7, 1853.

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## CHAPTER XXVIII.

### An Act for the relief of Antonio Menchaca.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Landoffice be, and he is hereby authorized and required to issue to Antonio Menchaca a certificate for one league of land, to be located upon any vacant and unappropriated domain of the State of Texas.

Sec. 2. Upon the return of said certificate with legal field-notes of the survey of the same to the General Landoffice, it shall be the duty of the Commissioner to issue to the said Antonio Menchaca, if alive, or to his heirs, a patent for the same upon the payment of the usual fees.

Approved, February 7, 1853.

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## CHAPTER XXIX.

### An Act to incorporate the Marshall Railroad Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That William Evans, William T. Scott, H. L. Berry, P. Murrah, M. J. Hall, T. A. Patillo, Joseph Taylor, and their associates be, and are hereby created and established a body corporate and politic, under the name and title of the Marshall Railroad Company, with the capacity, in said corporate name,

to make contracts, to have succession and a common seal, to make laws for its government and the regulation of its affairs, to sue and be sued, to plead and be impleaded, and to grant and receive, and generally to do and perform all such acts and things as may be necessary or proper for or incident to the fulfilment of its obligations, or the maintenance of its rights under this act, and consistent with the constitution of the State.

Sec. 2. That said company is hereby invested with the right to locate, construct, own and maintain a railing company, commencing at a suitable point and connecting with the New Orleans, Texas and Pacific Railway, and thence running by such course as said company shall decree and determine to be most suitable, to Marshall in Harrison county, with the right of owning and maintaining such branches of said railway as they may deem expedient.

Sec. 3. That the parties thus named in this act are hereby appointed commissioners, and invested with the right of forming and organizing said company, and generally of exercising the powers of directors until directors are chosen or appointed by such persons as may subscribe to the stock of said company, when the powers of the commissioners shall cease.

Sec. 4. That the capital stock of said company, to consist of all its property, real and personal, franchises and rights of property, shall be divided into shares of one hundred dollars each, each share entitling the owner thereof to one vote by himself or proxy, at all meetings of said company; said shares shall be deemed personal estate, and shall be transferable by any conveyance in writing, recorded by the Treasurer in books kept by him at his office, or in such manner as the by-laws of said company shall provide.

Sec. 5. That the immediate government and direction of the affairs of said company shall be vested in a board of not less than six directors, who shall elect one of their own number as President of said company; no person shall be eligible to the office of director unless an owner of at least five shares of the stock of said company; the directors shall have power to fill any vacancy that may occur in said board from non-election, death or otherwise, and may appoint a secretary, treasurer and such other officers and agents as they may consider necessary, and prescribe and require bonds for the faithful performance of their duties; they may, if not otherwise provided for by the by-laws, determine the manner of conducting all meetings, the number of members that shall constitute a quorum to do business, and do or cause to be done all other lawful matters and

things which they may deem necessary and proper in conducting the affairs of the company; they shall keep or cause to be kept, accurate records of all meetings of the directors and company, and accurate books of accounts of the company, and all ther books necessary and proper to be kept by such company, which shall be opened to the inspection of the stockholders; a majority of the bord of directors shall have the authority of a full board, and all conveyances and contracts in writing, executed by the President and countersigned by the Secretary, or any other officer or person authorized by the directors under the seal of the company, and in pursuance of a vote of said directors, shall be valid and binding.

Sec. 6. That the shares may be disposed of and books opened for subscriptions thereto, in such manner and on such terms as said commissioners shall determine will be for the best interests of said company, and any agreement in writing by which any person shall become a subscriber to the capital stock of said company, may be enforced against him according to its terms; and if any subscriber shall fail to pay any amount due upon shares subscribed by him according to the terms of his subscription, the directors may sell at auction and transfer to the purchaser the shares of such delinquent; and if the proceeds of sale shall not be sufficient to pay the amount due on said subscription, with interest and charges, such delinquent shall be held liable to the company for the deficiency, and if the proceeds shall exceed the amount so due, with interest and charges, said delinquent shall be entitled to the surplus.

Sec. 7. That it shall be lawful for the company to enter upon and purchase, or otherwise take and hold any land necessary for the purpose of establishing and constructing said railway, with all necessary depots and other buildings; and if they shall not be able to obtain said lands by agreement with the owner thereof, they shall pay therefor such compensation as shall be determined in the manner provided by the following section: Provided, that the lands so taken for the road bed shall not exceed two hundred feet in width, and for depots and other buildings only such further amount as shall be needed for such purposes.

Sec. 8. That any person, where land has been taken as aforesaid without agreement or satisfactory compensation, may apply to the District Court of the county in which said land is situated, for the appointment of, and said Court shall thereupon appoint three disinterested freeholders of the county, who shall appoint

a time and place to hear the applicant and the company, to whom shall be given by said freeholders reasonable notice of said time and place; and said freeholders shall, after being sworn and after due hearing of the parties, determine the amount of compensation, if any, to which the applicant may be entitled, and make return of their award to the next succeeding term of said Court; and said award, if not rejected by said Court for sufficient cause there shown, shall be entered up as the judgment of said Court. In determining the question of compensation, said freeholders shall be governed by the actual value of the land at the time it was taken, taking into consideration the benefit or injury done to other lands and property of the owner by the establishment of said railway; and if the amount of compensation awarded by said freeholders shall not exceed the amount offered by said company prior to said application to the Court, the applicant shall pay the costs of the proceedings, otherwise the company shall pay the same.

Sec. 9. That it shall be the duty of said company, whenever any State or county road now by law established, shall be crossed by the tract of said railway, to make and keep in repair good and sufficient causeways at such crossings; and in all cases where any persons shall own lands on both sides of said railway, and there shall be no other convenient access from one part to the other, such owner shall have the right of passage, free of cost, at all reasonable times, across the track of said railway.

Sec. 10. That this company is hereby required, at all reasonable times and for a reasonable compensation, to draw over the road the passengers, merchandize and cars of any other railroad corporation which has been or may hereafter be authorized by the legislature to enter with their railroad and connect with the railroad of this company; and if the respective companies shall be unable to agree upon the compensation aforesaid, it shall be the duty of the president of each company to select each one man as a commissioner, and the two commissioners so selected shall choose a third, in case of disagreement, neither of whom shall be a stockholder in either road or interested therein, and they shall fix the rates, which shall not be changed for one year from the time of going into effect. The said commissioners shall also fix the stated periods at which said cars shall be drawn as aforesaid, having reference to the convenience and interests of said corporations and the public who shall be accommodated thereby. The right and power is

specially conferred on said company to contract with any railroad company chartered by this State, for the performance of like transport; and in case of disagreement between said companies, the same shall be referred and settled as aforesaid, and be binding for one year as aforesaid.

Sec. 11. That said company may acquire real estate by gift or purchase, and that such commissioners hereinbefore mentioned shall have full authority to solicit and receive subscriptions and conveyances of land to said company until the time fixed for the first meeting of such commissioners, which authority may be then extended by said meeting, which said land so obtained shall be alienated in the following manner: one-fourth in six years, one-fourth in eight years, one-fourth in ten years and one-fourth in twelve years from the time the same was acquired.

Sec. 12. That if the tract of this railway shall cross any navigable stream, it shall do it in such a way as not to obstruct its navigation.

Sec. 13. That said company shall have the right to demand and receive such rates and prices for the transportation of passengers and freight, as they may thing proper to establish, not to exceed five cents per mile for passengers, and fifty cents per hundred pounds for freight for every hundred miles the same may be carried.

Sec. 14. That if any person shall wilfully injure or obstruct said railway or its property, such person may be punished when prosecuted by indictment for said offence, in due course of law, and also liable to action by said company or any person whatever who may suffer in person or property from said wilful obstruction, for the amount of damages occasioned thereby.

Sec. 15. That there shall be granted to said company eight sections of land of six hundred and forty acres each for every mile of railway actually completed by them and ready for use; and upon the application of the president of the company or any duly authorized agent thereof, stating that any section of five miles or more has been completed and ready for use, it shall be the duty of the Comptroller to give information of that fact to the Commissioner of the General Landoffice, whose duty it shall be to issue to said company land certificates to the amount of eight sections of land, of six hundred and forty acres each, for each and every mile of railway thus completed and ready for use; such certificates shall be for six hundred and forty acres each, and shall be located upon any unappropriated public domain of the State of Texas within twelve



months from the issuing thereof, which date shall appear on the face of each certificate; and upon the return of the fieldnotes of any survey made by virtue of any certificate thus issued, it shall be the duty of the Commissioner of the General Landoffice to issue patents to said company in their corporate name, one-fourth of which said lands thus patented shall be alienated by the company in six years, one-fourth in eight years, one-fourth in ten years and one-fourth in twelve years, so that the whole of the land thus granted shall pass from the hands of the company within twelve years from the date of the patents.

Sec. 16. That said company shall be required to have a good and sufficient brake upon the hindmost car in all trains transporting passengers and merchandise, and also permanently stationed there a trusty and skilful brakeman, under a penalty not exceeding one hundred dollars for each offense, to be recovered in any court of competent jurisdiction, for the benefit of the State; and said company shall cause to be placed on each locomotive engine passing on their road, a bell of the weight of at least thirty-five pounds, or a steam-whistle, and the said bell shall be rung, or whistle blown, at the distance of at least eighty rods from the place of crossing any highway or turnpike, and kept ringing or blowing until the engine has passed or stopped. Said company shall be required to construct their railroad with good T or U iron rails; Provided, that no land shall be donated unless the company shall actually commence their road within four years, and actually complete and finish at least ten miles within five years.

Sec. 17. That the first meeting of the commissioners or directors appointed by this act, shall be held in the town of Marshall, Harrison county, on the first Monday in August, 1853, in which and all subsequent meetings which may be held, at such times and places as the directors may think best, said directors or commissioners may act in person or by proxy.

Sec. 18. That nothing in this act shall be construed so as to confer banking privileges or powers of any kind whatever.

Sec. 19. That if said railway shall not be commenced within five years from the passage of this act, and at least twenty miles thereof completed within six years, then this charter shall be null and void; and it is hereby provided and declared, that it shall be lawful for any other railway hereafter to be constructed, to cross the said railway or any branch thereof, or to connect at any point therewith.

Sec. 20. That the said company shall have the right to take and hold so much of the public land, not exceeding two hundred feet wide, as the said railway or any of its branches may pass through, for the track thereof, and such additional width as may be absolutely necessary for any depot or other work for the purpose of said railroad, that the company may deem proper to establish; and in all cases where such railroad or any branch shall pass through any public lands, all such lands, to the depth of three miles from the extension line of the track on each side thereof, shall be reserved for the State from and after the time such track shall be fixed or designated by survey, recognition or otherwise; and the said lands, as the road is constructed, shall be divided into sections fronting one mile each on the road, plainly marked, and of these reserved lands the company shall have, by virtue of any of the certificates issued in accordance with the provisions of this act to cause to be located, surveyed and patented for their use, each alternate section, such section, in each instance, embracing a tract of land fronting one mile, pursuing an equal width, and the remaining sections shall continue the property of the State until disposed of by the Legislature.

Sec. 21. That this act take effect and be in force from and after its passage.

Approved, February 7, 1853.

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## CHAPTER XXX.

### An Act to incorporate the Galveston, Houston and Henderson Railroad Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That William C. Lacy, T. P. Anderson, R. A. Harris and William M. Tuck, and their associates and successors, be, and they are hereby created and established a body corporate and politic, under the name of the Galveston, Houston and Henderson Railroad Company, with capacity in said corporate name to make contracts, to have succession and a common seal, to make bye-laws for the government and regulation of the said company, to sue and be sued, to plead and be impleaded, to grant and receive and generally to do and perform all such acts as may be necessary and proper for, or incident to the fulfillment of its obligations, for the maintenance of its rights un-

der this act, and in accordance with the constitution of the State.

Sec. 2. That said company be, and is hereby invested with the rights of locating, contracting, owning and maintaining a railway, commencing at the city of Galveston, crossing Galveston bay so as not to obstruct or unreasonably impede the navigation of the same, and thence running by such course and such point at the city of Houston as said company shall deem most suitable; thence by the most suitable and direct line to Henderson, in Rusk county, and with the further privilege of making, owning and maintaining such branches of said railway as they may deem most expedient.

Sec. 3. That the parties named in this act, or a majority of them, with such persons as they may associate with themselves for this purpose, are hereby appointed commissioners, and invested with the right of forming and organizing said company, and of exercising the powers of directors until directors are chosen, when the powers of the commissioners shall cease.

Sec. 4. That the capital stock of said company shall be divided into shares of one hundred dollars each, each share entitling the owner thereof to one vote, in person or by proxy, at all meetings of the company, and the shares shall be deemed personal estate, and shall be transferable by any conveyance in writing, recorded either by the Treasurer, in books kept by him for that purpose at his office, or by any other officer duly authorized by the directors, in books kept by him at such other place as the directors may appoint, such transfers as are recorded in any other place, being within ninety days communicated to the Treasurer, and by him entered on his books.

Sec. 5. The immediate control and direction of the affairs of the company, shall be vested in a board of not less than five directors. Said directors shall elect one of their own number to be President of the company; the first board of directors shall be chosen by the persons named in this act, and such persons as they may associate with themselves for that purpose; said election shall be held in the city of Galveston, and at such times as the persons named in this act, or a majority of them with their associates shall have determined. No person shall be eligible to the office of director unless he be a subscriber or owner of at least three shares of the capital stock; the directors shall have power to fill any vacancy in their body, arising from non-election or other cause: they shall have power to appoint a clerk, treasurer, or any other officers or agents as they may deem necessary, and prescribe and require bonds for the faithful perfor-

mance of their duties; they may make all necessary rules and regulations for the holding of meetings, and all other things they may deem proper for the carrying out the provisions of this charter, and business of the company; they shall keep, or cause to be kept, correct records of all meetings of the directors and company, and accurate books and accounts of the receipts and expenditures of the company, and all other books and accounts necessary and proper to be kept by such company; which books shall be open to the inspection of the stockholders; a majority of the board of directors shall have the power of a full board, and all conveyances and contracts executed in writing, signed by the president and countersigned by the treasurer, or any other officer duly authorized by the directors, under seal of the company, and in pursuance of a vote of the directors, shall be valid and binding.

Sec. 6. That the directors shall have power to dispose of the shares in said capital stock, in such manner and on such terms as they may deem best for the interest of the company, and any agreement in writing, whereby any person shall become a subscriber to the capital stock of said company, may be enforced against him according to its terms. If any subscriber shall fail to pay any amount due upon shares subscribed for by him, according to the terms of his subscription, the directors may, after twenty days public notice, sell at public auction the shares subscribed for by said delinquent, and transfer to the purchaser such shares; if the proceeds of sale shall not be sufficient to pay the amount due, with interest and charges, such delinquent shall be held liable to the company for the deficit, and if the proceeds shall exceed the amount so due with interest and charges, he shall be entitled to the surplus.

Sec. 7. It shall be lawful for the company to purchase and hold any land that may be necessary for the purpose of locating, constructing and maintaining said railway, with all necessary depots and other buildings, and by their engineers or agents, enter upon and take possession of all such lands as may be necessary for the locating, constructing and maintaining said railway, and if they shall not be able to obtain such lands by agreement with the owner, they shall pay for the same such amount as shall be determined in the manner provided for in the following section: the land so taken for the railroad shall not exceed fifty yards in width, and for depots and buildings only such further width as may be necessary.

Sec. 8. That any person from whom lands have been taken for the purposes set forth in the preceding section, may apply

to the District Court of the county wherein said lands are situated, for the appointment of appraisers, and said Court, after proof that the President or other officer of the company has been served with a notice describing the land, ten days before the holding of the Court, the Court shall thereupon appoint three disinterested freeholders, citizens of the county, who shall appoint a time and place to hear the application, and the company, to whose agent or President a reasonable notice shall be given by the Court of said time and place, and said freeholders being sworn, shall after hearing the parties, determine the amount of compensation as aforesaid, and make return of their award to said Court at its next term, and said award may be confirmed, or for any sufficient reason, rejected by said Court, in the same manner as awards by arbitrators under a rule of Court, and if confirmed by the Court, judgment shall be rendered thereon as in other cases. In determining the amount of compensation to be paid as aforesaid, said freeholders shall be governed by the actual value of the land at the time it was taken, taking into consideration the benefit or injury done to other neighboring lands of the owner, by the establishment of said railway; if in any case the amount found by the arbitrators shall not exceed the sum proved to have been offered by the company to the owner prior to his application to the Court, the owner shall pay the costs of proceedings; otherwise, the company shall pay the same.

Sec. 9. That said company may acquire by purchase, donation, or in payment of stock, such real estate as the directors shall think desirable for the purpose of aiding in the construction or maintenance of said road, and such real estate acquired by the company, may be alienated or mortgaged by a vote of the majority of the directors, for the constructing or maintaining said railway; said alienation or mortgage shall be signed in the name of the President and countersigned by the Treasurer.

Sec. 10. That the said company shall have power to borrow money on their bonds, or notes, at such rates as the directors deem expedient; Provided, however, that nothing in this act shall be construed to confer banking privileges of any kind.

Sec. 11. That upon the written request of one-fourth of the stockholders, the President of the company shall call a special meeting of the directors, and upon the written demand of three-fourths of the stockholders, the President shall remove any one, or the whole of the directors, and order a new election within thirty days, which directors so elected shall hold their offices until the time prescribed for the next regular election.

Sec. 12. That if said railway is not commenced within twelve months from the first day of March, 1853, and at least forty miles are not in running order within three years after its commencement, then this charter shall be null and void.

Sec. 13. That the company is hereby required at all reasonable times and for a reasonable compensation, to draw over their road the passengers, merchandize, and cars of any other railroad corporation, which has been or may hereafter be authorized by the legislature to enter with their railroad and connect with the railroad of this company; and if the respective companies shall be unable to agree upon the compensation aforesaid, it shall be the duty of the President of each company to select each one man as a commissioner, and the two commissioners so selected, shall choose a third in case of disagreement, neither of whom shall be a stockholder in either road, or interested therein, and they shall fix the rates, which shall not be changed for one year from the time of going into effect. The said commissioners shall also fix the stated periods at which said cars are to be drawn as aforesaid, having reference to the convenience and interests of said corporations, and the public who shall be accommodated thereby; the right or power is specially conferred on this company to connect and contract with any railroad company heretofore or hereafter chartered by this State, for the performance of like transport, and in case of disagreement between companies, the same shall be referred and settled as aforesaid, to be binding for one year as aforesaid.

Sec. 14. That this act of incorporation shall expire in ninety years unless it shall be renewed or extended.

Sec. 15. That this company shall be subject to the provisions of any general laws not inconsistent with the terms of its charter, which may be enacted by this State, regulating railroad companies.

Sec. 16. That this act shall take effect from its passage.

[Approved, 7th February, 1853.]

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## CHAPTER XXXI.

### An Act to incorporate the Bastrop Academy.

Section 1. Be it enacted by the Legislature of the State of Texas. That S. W. Sims, Thomas B. J. Hill, A. W. Moore, C. K. Hall, James H. Gillespie, Josiah W. Whipple and Thomas C. Moore and their successors in office be, and they are hereby

constituted a board of Trustees of the Academy heretofore erected and established in the town of Bastrop, in the county of Bastrop, which is by this act incorporated, by the name of "Bastrop Academy," by which name it may sue and be sued, plead and be impleaded, and buy and sell property, real, personal and mixed, and hold the same.

Sec. 2. That the lot of ground situated in the town of Bastrop, known as the south west lot, in farm lot No. 2, west of main street, which is particularly described in a deed of conveyance drawn in favor of Samuel W. Sims, Samuel B. Morris, Thomas B. J. Hill, Josiah W. Whipple, Constance K. Hall, Charles L. McGehee and Abraham W. Hill, as Trustees for the Bastrop Educational Association, bearing date the tenth day of December, in the year of our Lord one thousand eight hundred and fifty-one, executed by John D. Hogan and Hortentia G. Hogan, being the same ground upon which the Academy buildings have been erected, together with the said Academy buildings and all books, apparatus and every species of property of the Bastrop Educational Association, and of the Bastrop Educational Society, and of Bastrop Academy, is hereby placed, and shall be hereafter under the control and direction of the before named Trustees and their successors in office, who shall hold the same as Trustees, in trust for the Texas Annual Conference of the Methodist Episcopal Church South.

Sec. 3. That each of the individuals before named as Trustees shall hold their office until the first Monday of February next, (1854,) and at the next session of the Texas Annual Conference of the Methodist Episcopal Church South, the said Trustees shall be divided by said conference into three classes, the term of the first class shall expire on the first Monday in February, 1854; and that of the second class, on the first Monday in February, 1855; and that of the third class on the first Monday in February 1856; provided, that any Trustee shall be eligible to re-election; and provided further, that any Trustee may be removed by the Texas Annual Conference of the Methodist Episcopal Church South, for abusing his trust or for neglect of duty.

Sec. 4. That it shall be the duty of the Texas Annual Conference of the Methodist Episcopal Church South, at each of its sessions hereafter, to elect such number of Trustees as may be necessary to fill all vacancies which may have occurred in said board or which may occur by the expiration of the term of any of its members, before the next session of said annual

conference; provided, that every Trustee who shall hereafter be elected (except such as may be elected to fill vacancies occasioned by the death, resignation or removal of any member of the board) shall enter upon the duties of his office on the first Monday in February next, after his election, and shall continue in office three years, and when such Trustee shall be elected to fill a vacancy occasioned by the death, resignation or removal of a member of said board, he shall hold his office until the term of his predecessor would have expired.

Sec. 5. That the said board of Trustees shall elect one of their own number chairman of the board. They shall also elect one Treasurer and one Secretary. The chairman shall preside at the meetings of said board, but in his absence a chairman pro tem. may be appointed by said board. The Treasurer shall be elected for one year, he shall keep a fair record of all moneys, notes and papers of value received and paid out by him, paying out the same by order of the board of Trustees, signed by the President of the board; he may at any time be removed for a dereliction of duty, by a two-third vote of the board of Trustees. The Secretary shall be elected for three years, he shall attend the meetings of the board of Trustees, and shall keep a fair record of all its proceedings and resolutions, and also of such by-laws and regulations as may be passed by said board for the government of the school.

Sec. 6. No money shall be paid out of the Treasury of the Academy except by the order of the board of Trustees, signed by the chairman of the board. The said board shall have power to employ one President and as many Professors and Teachers in the Academy as the educational interests of the school may require, and they shall assign to all persons so employed their duties respectively, and fix their salaries. They shall have power to appropriate any money in the Treasury to the payment of the salary of any person employed in the school; and it shall be their duty to appoint an agent to attend to the collection of tuition fees and of all monies due to the academy. The said board shall have power to enact such by-laws as they may deem necessary for the government of the Academy; provided, the same be not in contravention to the constitution or laws of this State. The said board of Trustees shall have power, by a two-third vote of its members, to sell and dispose of any property of the said Academy, (except the ground and buildings, books and apparatus, occupied and used by the school,) which the said conference may direct; provided, that the proceeds of all such sales shall be applied to advance the



educational interests of the Academy. It shall be the duty of said board of Trustees to submit perfect reports of all their proceedings and of the financial condition of the academy to the Texas Annual Conference of the Methodist Episcopal Church South, at each of its sessions.

Sec. 7. That the said board shall, by and with the advice and consent of the said annual conference, have power to erect and repair all necessary buildings and improvements upon the ground belonging to the said academy, and to purchase such books and apparatus as they may deem necessary for its use.

Sec. 8. That the faculty of "Bastrop Academy" shall consist of the President, Professors and Teachers; the faculty shall have power to enforce all laws adopted by the board of Trustees for the government of the school, by such measures as may be considered reasonable, and shall have power to suspend any student who may knowingly violate the laws, which suspension shall last until the board of Trustees can be convened, who conjointly with the faculty shall have power to continue or remit the suspension; they shall also have power to expel disorderly students, but no student shall be suspended or expelled who has not knowingly violated some law of the board of Trustees.

Sec. 9. That the board of Trustees, conjointly with the faculty, shall have power to confer such degrees in the arts and sciences upon any student of Bastrop Academy, or person thought worthy, as are usually conferred by other academies and institutions of similar grade, and to grant certificates thereof, signed by the faculty and Trustees, and sealed with the seal of said academy, to authenticate and perpetuate their acts.

Sec. 10. That "Bastrop Academy" shall be competent to receive and hold contributions, gifts, donations and bequests of real estate, and of property of every kind, and all donations and bequests to said Academy shall be good and binding, although the corporate name of said Academy may not have been properly stated by the person making such donation or bequest; provided, however, that said Academy shall not hold property beyond the value of two hundred thousand dollars, (the Academy buildings and lot of ground on which they stand, excepted.)

Sec. 11. That four members of the board of Trustees shall constitute a quorum for the transaction of business, the said board may have and use a seal to authenticate and perpetuate all certificates of scholarship.

Sec. 12. That this act shall take effect and be in force from and after its passage.

Approved, February 7, 1853.

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## CHAPTER XXXII.

### An Act to incorporate the Virginia Point and Austin Railroad Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That Samuel W. Sims, Pleasant H. Jones, A. W. Moore, E. M. Smith and Thomas C. Moore, and their associates and successors be and they are hereby created and established a body corporate and politic, under the name and style of "The Virginia Point and Austin Railroad Company," with capacity in said corporate name to make contracts; to have succession and a common seal; to make by-laws for its government and the regulation of its affairs; to sue and be sued; to plead and be impleaded; to grant and receive, and generally to do and perform all such acts and things as may be necessary or proper for, or incident to the fulfilment of its obligations or the maintenance of its rights under this act and consistent with the constitution of this State.

Sec. 2. That said company be, and is hereby invested with the right of locating, constructing, owning and maintaining a railway, commencing at Virginia point on Galveston Bay, or at any suitable place within five miles of Virginia Point, and thence running as near a direct route as may be thought advisable by said company, to the city of Austin in the county of Travis, with the privilege of making, owning and maintaining such branches of said railway as they may deem expedient.

Sec. 3. That the parties named in this act, or a majority of them, with such persons as they may associate with themselves for this purpose, are hereby appointed Commissioners and invested with the right of forming and organizing said company, and generally of exercising the powers of Directors, until Directors are chosen, when the powers of the Commissioners shall cease.

Sec. 4. That the capital stock of said company shall not exceed fifteen hundred thousand dollars. The amount to be determined by the Commissioners or Directors and by them divided into shares, of such equal per value as they shall think

fit, each share entitling the owner thereof to one vote in person or by proxy at all meetings of the company, and the shares shall be deemed personal estate, and shall be transferable by any conveyance in writing, recorded either by the Treasurer of the company, in books to be kept by him at his office for that purpose, or by any officer duly authorized by the Directors, in books kept by him at such other place as the Directors may appoint, such transfers as may be recorded in such other place being within thirty days communicated to the Treasurer, and by him entered into his books.

Sec. 5. That the immediate direction and government of the affairs of the company shall be vested in a board of not less than five Directors; said Directors shall elect one of their own body to be President of the company. The first Directors shall be chosen by said Commissioners, and such persons as they may associate with themselves for the purpose, and at such time and place as they shall appoint, and they shall hold their offices until others are duly elected in their places by the members of the company. No person shall be eligible as Director unless a subscriber or owner of at least five shares of the capital stock. The Directors shall have power to fill any vacancy in their board, arising from non-election, death, resignation or other cause; to appoint a Clerk, Treasurer and such other officers and agents as they may consider necessary, and prescribe and require bonds for the faithful performance of their duties. They may, if the same is not fixed by the by-laws, determine the manner of calling and conducting all meetings; the number of members that shall constitute a quorum, and do or cause to be done all other lawful matters or things they may deem necessary or proper in conducting the business of the company; they shall keep or cause to be kept accurate books of accounts of the receipts and expenditures of the company. A majority of the board of Directors shall have the power of a full board, and all conveyances and contracts in writing executed by the President and countersigned by the Treasurer, or any other officer duly authorized by the Directors under the seal of the company, and in pursuance of a vote of the Directors, shall be valid and binding.

Sec. 6. That the shares in said capital stock may be disposed of by the Directors in such manner and on such terms as they shall think best for the interest of the company; and any agreement in writing whereby any person may become a subscriber to the capital stock, may be enforced against him according to its terms; and if any subscriber shall fail to pay

any amount due upon shares subscribed for by him according to the terms of his subscription, the Directors may sell at auction and transfer to the purchaser the shares of such delinquent, and if the proceeds of sale shall not be sufficient to pay the amount so due, with interest and charges, such delinquent shall be held liable to the company for the deficiency, and if the proceeds shall exceed the amount so due, with interests and charges, he shall be entitled to the surplus.

Sec. 7. That it shall be lawful for the company to enter upon and purchase, or otherwise take and hold any land necessary for the purpose of locating, constructing and maintaining said railway, with all necessary depots and other business, and if they shall not be able to obtain such lands by agreement with the owners thereof, they shall pay such compensation as shall be determined in the manner provided for in the following section: the land so taken for the road bed shall not exceed fifty yards in width, and for depots and buildings only such further width as shall be necessary.

Sec. 8. That any person when land has been taken as aforesaid, may apply to the District Court of the county where the land is situated, for the appointment of, and said court shall thereupon appoint three disinterested free-holders of the county who shall appoint a time and place to hear the applicant and the company, to whom shall be given reasonable notice by the court of said time and place, and said free-holders shall, after being sworn, and after hearing the parties, determine the amount of compensation as aforesaid, and make return of their award to said court at its next regular term, and said award may be confirmed, or for any sufficient reason rejected by said court, in the same manner as awards of arbitrators, under a rule of court, and if confirmed by the court, judgment shall be rendered thereon as in other cases. In determining the amount of compensation to be paid as aforesaid, said free-holders shall be governed by the actual value of the land at the time it was taken, taking into consideration the benefit or injury done to other neighboring lands of the owner, by the establishment of said railway. If in any case the amount found by the arbitrators shall not exceed the amount proven to have been offered by said company to the owner prior to his application to the court, the owner shall pay the cost of the proceedings, otherwise the company shall pay the same.

Sec. 9. That said company shall have the right to charge such amount for transportation of all produce, merchandize and bulky freight as the Directors may establish, not to exceed one

half one cent on each and every hundred pounds of freight for every mile the same may be transported over said railway, and for all passengers over said railway said company may charge such sum not to exceed five cents per mile for each passenger, as said Directors may establish. And said company shall have the right to cross all public highways that may be necessary in establishing and maintaining said railway, but shall be compelled to make causeways over all public highways so crossed for the convenient passage of the public.

Sec. 10. That said company shall commence the construction of said railway within one year from the passage of this act, and complete the construction of the same to the city of Austin within five years from the passage of this act, and should said company fail to commence said railway within one year from the passage hereof, they shall forfeit and loose all rights under this act; and in the event said company shall fail to complete the final construction of said railway within said time of five years, said company shall forfeit all right to such portion of said Railway as may not be so completed.

Sec. 11. That said company shall be entitled to have and receive all the rights and privileges not herein specially named, which is or may be granted or conceded to other railroad companies.

Sec. 12. This company is hereby required at all reasonable times and for a reasonable compensation, to draw over their road the passengers, merchandize and cars of any other railroad corporation which has been or may hereafter be authorized by the Legislature, to enter with their railroad and connect with the railroad of this company, and if the respective companies shall be unable to agree upon the compensation aforesaid, it shall be the duty of the President of each company to select each one man as a Commissioner, and the two Commissioners so elected shall choose a third in case of disagreement, neither of whom shall be a stockholder in either road, or interested therein, and they shall fix the rates, which shall not be changed for one year from the time of going into effect; the said Commissioners shall also fix the stated periods at which said cars are to be drawn as aforesaid, having reference to the convenience and interests of said corporation and the public who will be accomodated thereby; the right or power is specially conferred on this said company to connect and contract with any railroad company chartered by this State for the performance of like transportation, and in case of disagreement between

said companies, the same shall be referred and settled as aforesaid, and be binding for one year as aforesaid.

Sec. 13. That this act take effect from and after its passage.

Approved, February 7, 1853.

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### CHAPTER XXXIII.

#### An Act to incorporate the Brownsville and Rio Grande Railroad Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That Patrick C. Shannon, Charles Stillman, J. R. Thompson, H. N. Caldwell, William Evans, Jno. E. Gary, Wm. P. Converse, A. J. Walker, Jno. P. Shannon, Daniel Wolf, Samuel A. Belden, E. Delmas and J. R. Butler, their associate and successors be, and are hereby created and established a body corporate and politic, under the name and title of The Brownsville and Rio Grande Railroad Company, with the capacity in said corporate name to make contracts, to have succession and a common seal, to make by-laws for its government and the regulation of its affairs, to sue and be sued, to plead and be impleaded, to grant and receive, and generally to do and perform all such acts and things as may be necessary or proper, for or incident to the fulfilment of its obligations or the maintenance of its rights under this act, and consistent with the Constitution of the State.

Sec. 2. That said company be, and is hereby invested with the right to locate, construct, own and maintain a railway, commencing at a suitable point on the Laguna Madra, Brazos Santiago, Brazos or Clark's Islands, and thence running by such course and to such points on the Rio Grande, and up and down said river, and by the way of the Sal del Rey as said company shall deem and determine to be most suitable, with the right of making, owning and maintaining such branches of said railway as they may deem expedient.

Sec. 3. That the parties named in this act are hereby appointed commissioners, and invested with the right of forming and organizing said company, and generally of exercising the powers of directors until directors are chosen or appointed by such persons as may subscribe to the stock of said company, when the powers of said commissioners shall cease.

Sec. 4. That the capital stock of said company, to consist

of all its property real and personal, franchises and rights to property, shall be divided into shares of one hundred dollars each, each share entitling the owner thereof to one vote, by himself or proxy, at all meetings of said company; that said shares shall be deemed personal estate, and shall be transferable by any conveyance in writing, recorded by the treasurer in books kept by him at his office, or in such manner as the by-laws of said company shall provide.

Sec. 5. That the immediate government and direction of the affairs of said company shall be vested in a board of not less than six directors, who shall elect one of their own number president of said company. No person shall be eligible to the office of director, unless an owner or subscriber of at least five shares of the stock of said company; the directors shall have the power to fill any vacancy that may occur in said board from non-election, death or otherwise, and may appoint a secretary, treasurer and such other officers and agents as they may consider necessary, and prescribe and require bonds for the faithful performance of their duties; they may, if not otherwise provided by the by-laws, determine the manner of conducting all meetings, the number of members that shall constitute a quorum, and to do or cause to be done all other lawful matters and things which they may deem necessary and proper in conducting the matters of the company; they shall keep or cause to be kept, accurate records of all meetings of the directors and company, and accurate books of the accounts of the receipts and expenditures of the company, and all other books necessary and proper to be kept by such company, which shall be open to the inspection of the stockholders; a majority of the board of directors shall have the authority of a full board, and all conveyances and contracts in writing, executed by the president and countersigned by the secretary or any other officer or person authorized by the directors, under the seal of the company, and in pursuance of a vote of said directors, shall be valid and binding.

Sec. 6. That the shares may be disposed of and books opened for subscription thereto, in such manner and on such terms as said commissioners shall determine will be best for the interest of said company; and any agreement in writing by which any person shall become a subscriber to the capital stock of said company, may be enforced against him according to its terms; and if any subscriber shall fail to pay any amount due upon shares subscribed by him according to the terms of his subscription, the directors may sell at auction and transfer

to the purchaser the shares of such delinquent, and if the proceeds of the sale shall not be sufficient to pay the amount due on said subscription, with interest and charges, such delinquent shall be held liable to the company for the deficiency; and if the proceeds shall exceed the amount so due, with interest and charges, said delinquent shall be entitled to the surplus.

Sec. 7. That it shall be lawful for the company to enter upon and purchase, or otherwise take and hold any land necessary for the purpose of constructing and establishing said railway, with all necessary depots and other buildings; and if they shall not be able to obtain said lands by the agreement with the owner thereof, they shall pay therefor such compensation as shall be determined in the manner provided by the following section; provided, that the land so taken for the road bed shall not exceed two hundred feet in width, and for depots and other buildings only such further width as shall be needed for such purposes.

Sec. 8. That any person, where land has been taken as aforesaid without agreement or satisfactory compensation, may apply to the District Court of the county in which said land is situated, for the appointment of, and said court shall thereupon appoint three disinterested freeholders of the county, who shall appoint a time and place to hear the applicant and the company, to whom shall be given by said freeholders a reasonable notice of said time and place, and said freeholders shall, after being sworn, and after due hearing of the parties, determine the amount of compensation, if any, to which the applicant may be entitled, and make return of their award to the next succeeding court; and said award, if not rejected by said Court for sufficient cause then shown, shall be entered up as the judgment of said Court. In determining the question of compensation, said freeholders shall be governed by the actual value of said land at the time it was taken, taking into consideration the benefit or injury done to the other lands and property of the owner by the establishment of said railway, and if the amount of compensation awarded by said freeholders shall not exceed the amount offered by said company to the owner, prior to said application to the Court, the applicant shall pay the costs of the proceedings, otherwise the company shall pay the same.

Sec. 9. That it shall be the duty of said company, whenever any State or county road now by law established shall be crossed by the track of said railway, to make and keep in repair good and sufficient causeways at such crossings; and in



all cases where any person shall own lands on both sides of said railway, and there shall be no other access convenient from one part to the other, such owner shall have the right of passage free of costs, at all reasonable times, across the track of said railway.

Sec. 10. This company is hereby required, at all reasonable times and for a reasonable compensation, to draw over their road the passengers, merchandize and cars of any other railroad corporation which has been or may hereafter be authorized by the legislature, to enter with their railroad and connect with the railroad of this company; and if the respective companies shall be unable to agree upon the compensation aforesaid, it shall be the duty of the president of each company to select each one man as a commissioner, and the two commissioners so selected shall choose a third, in case of disagreement, neither of whom shall be a stockholder in either road or interested therein, and they shall fix the rates, which shall not be changed for one year from the time of going into effect; the said commissioners shall also fix the stated periods at which said cars are to be drawn as aforesaid, having reference to the convenience and interests of said corporations and the public, who will be accommodated thereby. The right or power is specially conferred on this said company to connect and contract with any railroad company chartered by this State, for the performance of like transport, and in case of disagreement between said companies, the same shall be referred and settled as aforesaid, and be binding for one year as aforesaid.

Sec. 11. That said company may acquire real estate by gift or purchase, and that such commissioners hereinbefore mentioned shall have full authority to solicit and receive subscriptions and conveyances of land to said company until the time fixed for the first meeting of said commissioners, which authority may be then extended by said meeting, which said land so obtained shall be alienated by said company in the following manner: one-fourth in six years, the one-fourth in eight years, one-fourth in ten years, and the other fourth in twelve years from the same was acquired.

Sec. 12. That if the track of this railway shall cross any navigable stream, it shall do it in such way as not to obstruct its navigation.

Sec. 13. That said company shall have the right to demand and receive such rates and prices for the transportation of passengers and freight as they may think proper to establish, not to exceed five cents per mile for passengers, and fifty cents per

hundred pounds for freight for every hundred miles the same may be carried.

Sec. 14. That if any person shall wilfully injure or obstruct said railway or its property, such person may be punished when prosecuted by indictment for said offense in due course of law, and also liable to action by said company or any person whatever who may suffer in person or property from said wilful obstruction, for the amount of damages occasioned thereby.

Sec. 15. There shall be granted to said company eight sections of land of six hundred and forty acres each, for every mile of railway actually completed by them and ready for use; and upon the application of the president of the company, or any duly authorized agent thereof, stating that any section of five miles or more of said railway has been completed and is ready for use, it shall be the duty of the Comptroller of Public Accounts to require the State engineer, or a commissioner to be appointed by the Governor, to examine said railway, and upon his certificate that said section of said railway has been completed in a good and substantial manner, and is ready for use, the Comptroller shall give information of that fact to the Commissioner of the General Landoffice, whose duty it shall be to issue to said company land certificates to the amount of eight sections of land, of six hundred and forty acres each, for each and every mile of railway thus completed and ready for use; such certificates shall be for six hundred and forty acres each, and shall be located upon any unappropriated public domain of the State of Texas, within twelve months from the issuing thereof, which date shall appear upon the face of each certificate; and upon the return of field-notes of any survey made by virtue of any certificate thus issued, it shall be the duty of the Commissioner of the General Landoffice to issue patents to said company in their corporate name, one-fourth of which said lands patented shall be alienated by the company in six years, one-fourth in eight years, one-fourth in ten years, and the other fourth in twelve years, so that the whole of the lands thus granted shall pass from the hands of the company within twelve years from the date of the patents thus issued.

Sec. 16. Said company shall be required to have a good and sufficient brake upon the hindmost car in all trains transporting passengers or merchandize, and also permanently stationed there a trusty and skilful brakeman, under a penalty of not exceeding the sum of one hundred dollars for each offence, to be recovered in any court of competent jurisdiction, for the benefit of the State; and said company shall cause to be placed

on each locomotive engine passing over their road, a bell of the weight of thirty-five pounds, or a steam whistle, and the said bell shall be rung or the whistle blown, at the distance of at least eighty rods from the place of crossing any highway or turnpike, and keep ringing or blowing until the engine has passed or stopped. Said company shall be required to construct their railroad with good T or U iron rails; provided, that no land shall be donated unless the company shall actually commence their road within three years, and actually complete and finish at least ten miles within four years; and provided, also, that the alternate sections belonging to the State, named in this section, shall not be subject to entry or location, but shall be sold under such laws as may hereafter be passed, and the money paid into the State Treasury.

Sec. 17. The first meeting of the commissioners or directors appointed by this act, shall be held at Brownsville, on the first Monday in June next, in which and all subsequent meetings said directors may act in person or by proxy.

Sec. 18. That nothing in this act shall be so construed as to confer banking privileges or powers of any kind whatever.

Sec. 19. That if said railway shall not be commenced within five years from the passage of this act, and at least twenty miles thereof are not completed within six years, then this charter shall be null and void. And it is hereby provided and declared that it shall be lawful for any other railway hereafter to be constructed, to cross the said railway or any branch thereof, or to connect at any point therewith.

Approved, February 7, 1853.

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#### CHAPTER XXXIV.

##### An Act to incorporate the Colorado Valley Railroad Company.

Section 1. Be it enacted by the Legislature of the State of Texas. That John Duncan, William L. Sartevell, John C. Perry and their associates and successors be, and are hereby created a body corporate and politic, under the name and style of the "Colorado Valley Railway company," with the capacity in said corporate name to make contracts; to have succession and a common seal; to make by-laws for its government, and the regulation of its affairs; to sue and be sued; to plead and be impleaded; to grant and receive, and generally

to do and perform all such acts and things as may be necessary or proper for, or incident to the fulfilment of its obligations, or the maintenance of its rights under this act, and consistent with the Constitution of the State.

Sec. 2. That said company be, and is hereby invested with the right to locate, construct, own and maintain a railway, commencing at any suitable point to be selected by a majority vote of the stockholders, on the bay of Matagorda or Trespalacios Bay, between the half moon reef and Carancuaha Bay, thence running by such course as may be deemed most suitable, to the city of Austin, or to such intermediate point on the Colorado river as may hereafter be determined by said company, with the right of extending said railroad to the town of Fredericksburg, and of making and owning such branches of said railroad as they may deem expedient.

Sec. 3. The parties named in this act are hereby appointed Commissioners, and invested with the right of forming and organizing said company, and generally to exercise the powers of Directors until Directors are chosen or appointed by such persons who may subscribe to the stock of said company, when the powers of said Commissioners shall cease.

Sec. 4. The capital stock of said company, to consist of all its property, real and personal, franchises and rights to property, shall be divided into shares of one hundred dollars each, each share entitling the owner thereof to one vote by himself or proxy, at all meetings of said company. That said shares shall be deemed personal estate, and shall be transferable by any conveyance in writing, recorded by the Treasurer in books kept by him at his office, or in such other manner as the by-laws of said company shall provide.

Sec. 5. The immediate government and direction of the affairs of said company, shall be vested in a board of not less than ten Directors, who shall elect one of their own number as President of said company: no person shall be eligible to the office of Director unless an owner or subscriber of at least five shares of the stock of said company: the Directors shall have the power to fill any vacancy that may occur in said board from non-election, death or otherwise, and may appoint a Secretary, Treasurer and such other officers and agents as they may consider necessary, and prescribe and require bonds for the faithful performance of their duties; they may, if not otherwise provided by the by-laws, determine the manner of conducting all meetings, the number of members that shall constitute a quorum, and to do, or cause to be done, all other

lawful matters or things which they may deem necessary and proper, in conducting the matters of the company; they shall keep or cause to be kept, accurate records of all meetings of the Directors and company, and accurate books of accounts of the receipts and expenditures of the company, and all other books necessary and proper to be kept by such company, which shall be open to the inspection of the stockholders. A majority of the board of Directors shall have the authority of a full board, and all conveyances and contracts in writing, executed by the President and countersigned by the Secretary, or any other officer or person authorized by the Directors, under the seal of the company and in pursuance of a vote of said Directors, shall be valid and binding.

Sec. 6. The shares may be disposed of and books opened for subscription thereto, in such manner or on such terms as said Commissioners shall determine will be best for the interests of said company, and any agreement in writing by which any person shall become a subscriber to the capital stock of said company, may be enforced against him according to its terms, and if any subscriber shall fail to pay any amount due upon shares subscribed by him according to the terms of his subscription, the Directors may sell at auction, and transfer to the purchaser the shares of such delinquent, and if the proceeds of sale shall not be sufficient to pay the amount due on said subscription, with interest and charges, such delinquent shall be held liable to the company for the deficiency, and if the proceeds shall exceed the amount so due with interest and charges, said delinquent shall be entitled to the surplus.

Sec. 7. It shall be lawful for the company to enter upon and purchase, or otherwise take and hold, any land necessary for the purpose of establishing and constructing said railway, with all necessary depots and other buildings, and if they shall not be able to obtain such lands by agreement with the owners thereof, they shall pay therefor such compensation as shall be determined in the manner provided by the following section: provided, that the land so taken for the road bed shall not exceed two hundred feet in width, and for depots and other buildings only such further width as shall be needed for such purposes.

Sec. 8. And any person, when land has been taken as aforesaid, without agreement or satisfactory compensation, may apply to the District Court of the county in which said land is situated for the appointment of, and said court shall thereupon appoint three disinterested free-holders of the county, who shall

appoint a time and place to hear the applicant and the company, to whom shall be given by said free-holders reasonable notice of said time and place, and said free-holders shall, after being sworn and after due hearing of the parties, determine the amount of compensation, if any, to which the applicant may be entitled, and make return of their award to the next succeeding term of said court, and said award, if not rejected by said court, for sufficient cause then shown, shall be entered up as the judgment of said court. In determining the question of compensation, said free-holders shall be governed by the actual value of the land at the time it was taken, taking into consideration the benefit or injury done to the other lands and property of the owner by the establishment of said railway, and if the amount of compensation awarded by said free-holders shall not exceed the amount offered by said company to the owner, prior to said application to the court, the applicant shall pay the costs of the proceedings, otherwise the company shall pay the same.

Sec 9. It shall be the duty of said company, whenever any State or county road, now by law established, shall be crossed by the track of said railway, to make and keep in repair good and sufficient causeways, at such crossings, and in all cases where any person shall own lands on both sides of said railway, and there shall be no other sufficient access from one part to the other, such owner shall have the right of passage free of cost at all reasonable times, across the track of said railway.

Sec. 10. This company is hereby required at all reasonable times, and for a reasonable compensation, to draw over their road the passengers, merchandize and cars of any other railroad corporation which has been or may hereafter be authorized by the Legislature, to enter with their railroad and connect with the railroad of this company, and if the respective companies shall be unable to agree upon the compensation aforesaid, it shall be the duty of the President of each company to select each one man, as a Commissioner, and the two Commissioners so selected shall choose a third, in case of disagreement, neither of whom shall be a stockholder in either road, or interested therein, and they shall fix the rates, which shall not be changed for one year from the time of going into effect; the said Commissioners shall also fix the stated periods at which said cars are to be drawn as aforesaid, having reference to the convenience and interests of said corporations and the public who will be accommodated thereby. The right or power is

specially conferred on the said company to connect and contract with any railroad company chartered by this State, for the performance of like transport, and in case of disagreement between said companies, the same shall be referred and settled as aforesaid, and be binding for one year as aforesaid.

Sec. 11. Said company may acquire real estate by gift or purchase, and that such Commissioners hereinbefore mentioned shall have full authority to solicit and receive subscriptions and conveyances of land to said company, until the time fixed for the first meeting of said Commissioners, which authority may be then extended by said meeting, which said land thus obtained shall be alienated by said company in the following manner: one-fourth in six years, the one-fourth in eight years, the one-fourth in ten years, and the other fourth in twelve years from the time the same was acquired.

Sec. 12. If the track of this railway shall cross any navigable stream, it shall do it in such way as not to obstruct its navigation.

Sec. 13. Said company shall have the right to demand and receive such rates and prices for the transportation of passengers and freight as they may think proper to establish, not to exceed five cents per mile for passengers, and fifty cents per hundred pounds for freight, for every hundred miles the same may be carried.

Sec. 14. If any person shall wilfully injure or obstruct said railway or its property, such person may be punished when prosecuted by indictment for said offence in due course of law, and also liable to action by said company, or any person whatever who may suffer in person or property from said wilful obstruction, for the amount of damages occasioned thereby.

Sec. 15. There shall be granted to said company eight sections of land, of six hundred and forty acres each, for every mile of railway actually completed by them and ready for use, and upon the application of the President of the company or any duly authorized agent thereof, stating that any section of five miles or more of said railway has been completed and is ready for use, it shall be the duty of the Comptroller of Public Accounts to require the State Engineer, or a Commissioner to be appointed by the Governor, to examine said railway at the expense of said company, and upon his certificate that said section of said railway has been completed in a good and substantial manner and is ready for use, the Comptroller shall give information of that fact to the Commissioner of the General Landoffice,

whose duty it shall be to issue to said company land certificates to the amount of eight sections of land of six hundred and forty acres each, for each and every mile of railway thus completed and ready for use, such certificates shall be for six hundred and forty acres each, and shall be located upon any unappropriated public domain of the State of Texas, within twelve months from the issuing thereof, which date shall appear upon the face of each certificate, and upon the return of the field notes of any survey, made by virtue of any certificate thus issued, it shall be the duty of the Commissioner of the General Landoffice to issue patents to said company in their corporate name, one-fourth of which said land thus patented shall be alienated by the company in six years, one-fourth in eight years, one-fourth in ten years and the other fourth in twelve years, so that the whole of the land thus granted shall pass from the hands of the company within twelve years from the date of the patents thus issued.

Sec. 16. Said company shall be required to have a good and sufficient brake upon the hindmost car, in all trains transporting passengers or merchandize and also permanently stationed there a trusty and skillful brakeman, under a penalty not exceeding the sum of one hundred dollars for each offence, to be recovered in any court of competent jurisdiction, for the benefit of the State; said company shall cause to be placed on each locomotive engine passing over their road, a bell of the weight of at least thirty-five pounds, or a steam whistle, and the said bell shall be rung or the whistle blown at the distance of at least eighty rods from the place of crossing any highway or turnpike, and kept ringing or blowing until the engine has passed or stopped; said company shall be required to construct their railroad with good T or U iron rails; provided, that no land shall be donated unless the company shall actually commence their road within two years, and construct twenty-five miles every year thereafter, until the road be entirely finished.

Sec. 17. The first meeting of the Commissioners or Directors appointed by this act, shall be held at Columbus on the first Monday in August next, in which and all subsequent meetings said Directors may act in person or by proxy.

Sec. 18. Nothing in this act shall be so construed as to confer banking privileges or powers of any kind whatever.

Sec. 19. If said railway shall not be commenced within five years from the passage of this act, and at least twenty miles thereof are not completed within ten years, then this charter shall be null and void; and it is hereby provided and



declared, that it shall be lawful for any other railway hereafter to be constructed to cross the said railway or any branch thereof, or to connect at any point therewith.

Sec. 20. This charter shall in no event, unless renewed by the Legislature, continue for a longer term than ninety years from the passage of this act, but the same shall expire and cease to exist at the expiration of that term. This act shall take effect and be in force from and after its passage.

Approved, February 7, 1853.

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#### CHAPTER XXXV.

An Act to incorporate the Memphis and El Paso and Pacific Railroad Company.

Section 1. Be it enacted by the Legislature of the State of Texas, That James Bourland, William C. Young, A. M. Alexander, Geo. W. Wright, G. W. Barnett, G. A. Foote, Martin D. Hart, Jno. G. Chambers, Howell W. Runnels, Jno. Holford, Edward Sweat, Eldridge Hopkins, M. T. Johnson, and such other persons as they may associate with them for the purposes, and their successors be, and they are hereby constituted and created a body corporate and politic, under the name and style of the "Memphis and El Paso and Pacific Railroad Company," with the capacity in said corporate name to make contracts, to have succession and a common seal; to make by-laws for its government and the regulation of its affairs, to sue and be sued, to plead and be impleaded, to grant and receive, and generally to do and perform all such acts and things as may be proper or necessary for the fulfillment of its contracts and obligations, and for the maintenance of its rights under this act, and consistent with the constitution and laws of this State.

Sec. 2. Said company is hereby invested with the right to locate, to construct, own and maintain a railway, commencing on Red River, at a suitable point opposite the terminus on that stream of the Memphis and Arkansas road, or at a point near the white oak shoals, as said company may choose, and thence running in a westwardly direction up the valley of the Red River, crossing the extreme source of the headwaters of the Trinity river; thence on to the main or salt fork of the Brazos river, crossing the same at or near the United States post, "Fort Belknap;" thence to the Rio Grande, striking the same

at or near El Paso, said road running such course and to such points as said company shall deem and determine to be most suitable, with the right of making, owning and maintaining such branches of said railway as they may deem expedient.

Sec. 3. Said James Bourland and William C. Young and their associates, are hereby appointed Commissioners, and invested with the right of forming and organizing said company, and generally of exercising the powers of directors, until directors are chosen or appointed by such persons as may subscribe to the stock of said company, when the powers of said Commissioners shall cease.

Sec. 4. The capital stock of said company, to consist of all its property, real and personal, franchises and rights to property, shall be divided into shares of fifty dollars each, one share entitling the owner thereof to one vote by himself or proxy, at all meetings of said company; said shares shall be deemed personal estate, and shall be transferable by any conveyance in writing, recorded by the Treasurer in books kept by him at his office, or in such other manner as the by-laws of said company shall provide.

Sec. 5. The immediate government and direction of the affairs of said company shall be vested in a board of not less than six directors, who shall elect one of their own members as President of said company. No person shall be eligible to the office of director, unless an owner of at least ten shares of the stock of said company. The directors shall have the power to fill any vacancy that may occur in said board from non-election, death or otherwise, and may appoint a Secretary, Treasurer and such other officers and Agents as they may consider necessary, and prescribe and require bonds for the faithful performance of their duties; they may, if not otherwise provided by the laws, determine the manner of conducting all meetings, the number of members that shall constitute a quorum, and to do or cause to be done all things which they may deem necessary and proper in the management of, and conducting the matters of said company. They shall keep or cause to be kept an accurate record of all meetings of the directors and company, and correct books of all accounts of the receipts and expenditures of the company, and all other books necessary and proper to be kept by said company, which shall be open at all times to the inspection of the stockholders; a majority of the board of directors shall have the authority of a full board, and all conveyances and contracts in writing executed by the President and countersigned by the Secretary,

or any other person or officer authorized by the directors under the seal of the Company, and in pursuance of a vote of said directors, shall be valid and binding.

Sec. 6. The shares may be disposed of, and books opened for subscription thereto, in such manner and on such terms as said Commissioners shall determine will be best for the interests of said company, and any agreement in writing by which any person shall become a subscriber to the capital stock of said company, may be enforced against him according to its terms, and if any person fail to pay the amount due by him to said company, for shares in said stock according to the terms of his subscription, the directors may sell at auction, and transfer to the purchaser the shares of such delinquent, and if the proceeds of the sale shall not be sufficient to pay the amount due on said subscription with interest and charges, such delinquent shall be held liable to the company for the deficiency, and if the proceeds of any such sale should exceed the amount so due, with interest and charges, said delinquent shall be entitled to the surplus.

Sec. 7. It shall be lawful for the company to enter upon and purchase or otherwise take, and hold any land necessary for the purpose of establishing and constructing said railway, with all necessary depots and other buildings, and if they shall not be able to obtain said lands by agreement with the owner thereof, they shall pay therefor such compensation as shall be determined in the manner provided by the following; provided, that the land so taken for the road bed, shall not exceed two hundred feet in width, and for depots and other buildings, such further width as shall be needed for such purposes.

Sec. 8. That any person, when land has been taken as aforesaid, without agreement or satisfactory compensation, may apply to the District Court of the county in which said land is situated, for the appointment of, and said court shall thereupon appoint three disinterested free-holders of the county, who shall appoint a time and place to hear the applicant and the company, to whom shall be given by said free-holders reasonable notice of said time and place, and said free-holders shall, after being sworn, and after due hearing of the parties, determine the amount of compensation, if any, to which the applicant may be entitled, and make a return of their award to the next succeeding term of said court, and said award, if not rejected by said court for sufficient cause then shown, shall be entered up as the judgment of said court. In determining the question of compensation, said free-holders shall be

governed by the actual value of the land at the time it was taken, taking into consideration the benefit or injury done to the other lands and property of the owner, by the establishment of said railway, and if the amount of compensation awarded by said freeholders shall not exceed the amount offered by said company to the owner prior to said application to the court, the applicant shall pay the costs of the proceedings, otherwise the company shall pay the same.

Sec. 9. It shall be the duty of said company, whenever any State or county road now by law established, or may hereafter be established, shall be crossed by the track of said railway, to make and keep in repair good and sufficient causeways at such crossings, and in all cases where any person shall own lands on both sides of said railway, and there shall be no other convenient access from one part to the other, such owner shall have the right, free of cost, at all reasonable times to cross the track of said railway.

Sec. 10. This company is hereby required at all reasonable times, and for a reasonable compensation, to draw over their road the passengers, merchandise and cars of any other railroad corporation which has been or may hereafter be granted by the Legislature, to enter with their railroad and connect with the railroad of this company, and if the respective companies shall be unable to agree upon the compensation aforesaid, it shall be the duty of the President of each company to select each one man as a Commissioner, and the two Commissioners shall choose a third in case of disagreement, neither of whom shall be stockholders in either road, or interested therein, and they shall fix the rates, which shall not be changed for one year from the time of going into effect. The said Commissioners shall also fix the stated periods at which cars are to be drawn as aforesaid, having reference to the convenience and interest of said corporations and the public who will be accommodated thereby. The right or power shall be specially conferred on said company to connect and contract with any railroad company chartered by this State for the performance of like transport, and in case of disagreement between said companies, the same shall be referred and settled as aforesaid, and be binding for one year as before contemplated.

Sec. 11. That said company may acquire real estate by gift or purchase, and such Commissioners hereinbefore mentioned shall have full authority to solicit and receive subscriptions and conveyances of land to said company, until the time fixed for the first meeting by said Commissioners, which authority

may be then extended by said meeting; which said land so obtained by said company shall be alienated by them in the following manner: one-fourth in six years, one-fourth in eight years, one-fourth in ten years, and one fourth in twelve years from the time the same was acquired by said company.

Sec. 12. If said railroad track should cross any navigable stream, it shall be in such manner as not to obstruct the navigation of the same.

Sec. 13. Said company shall have the right to demand and receive such rates of prices for transportation of freight and passengers as they may think proper to establish, not to exceed five cents per mile for passengers, and fifty cents for one hundred pounds of freight, for every one hundred miles the same may be carried.

Sec. 14. If any person shall wilfully obstruct or injure said railway or its property, such person or persons may be punished when prosecuted by indictment for such offences in due course of law, and shall be liable to action by said company, or any person whatever, who may suffer in person or property from such wilful obstruction, for the amount of damage occasioned thereby.

Sec. 15. There shall be granted to said company eight sections of land, of six hundred and forty acres each, for every mile of said railway completed by said company and ready for use, and upon application by the President of said company or any duly authorized agent thereof, stating that any section of five miles of said road has been completed and ready for use, it shall be the duty of the Governor of the State to require the State Engineer, or other Commissioner that may be appointed for that purpose, to examine said railway, and if found to be completed in a good and substantial manner and ready for use, such person so appointed shall give information of the fact to the Commissioner of the General Landoffice, whose duty it shall be to issue to said company land certificates, to the amount of eight sections of land of six hundred and forty acres each, for every mile of road completed by said company and reported by the Engineer or person appointed for that purpose, as being built in a good and sufficient manner; after the first five miles, said company shall receive eight sections of land of six hundred and forty acres each, to be located upon any vacant and unappropriated lands belonging to the State, within twelve months from the time such certificates have been issued, and upon return of field-notes of surveys made by virtue of any such certificates so issued, it shall be the duty of the

Commissioner of the General Land office to issue patents to said company in their corporate name, one fourth of which land shall be alienated by said company within six years, and one-fourth within eight years, and one-fourth within ten years, and one-fourth within twelve years, so that all lands thus acquired by said company shall pass out of their hands within twelve years from date of the patents thereof.

Sec. 16. Said company shall be required to have a good and sufficient brake upon the hindmost car, in all trains carrying passengers or freight, and also permanently stationed there, a trusty and skilful brakeman, under a penalty not exceeding one hundred dollars for each offence, to be recovered in any court of competent jurisdiction for the benefit of the State, and on each locomotive engine passing over said road shall be placed a bell of the weight of at least thirty-five pounds, or a steam whistle, and the said bell shall be rung or the whistle blown at the distance of at least eighty rods from the place of crossing any highway or turnpike, and kept ringing or blowing until the engine has passed or stopped, and said company shall construct their road of the best T or U iron rails; provided, no lands shall be granted by the State unless the road be commenced in three years, and twenty-five miles of the road actually completed within three years after the granting this charter.

Sec. 17. The first meeting of the Commissioners or Directors appointed by this act, shall be held in the town of Paris on the first Monday in May next, in which, as well as all after meetings, said Directors may act in person or by proxy.

Sec. 18. Nothing in this act shall be so construed as to confer banking privileges of any kind whatever.

Sec. 19. If this company shall not commence the construction of the road within two years from the passage of this act, and complete twenty-five miles thereof, from year to year for every year thereafter, until the same shall be entirely completed, this act shall be null and void.

Sec. 20. That should the State Legislature at any time adopt a general system of Internal Improvements by which other privileges than such as are enumerated by this charter, shall be granted to railroad companies, then in that case "the Memphis and El Paso and Pacific railroad company," shall be entitled to all such privileges and immunities and be subject to such general laws as may hereafter be enacted regulating railroad companies.

Sec. 21. That this act take effect and be in force from and after its passage.

Approved, February 7, 1853.



## STATE OF TEXAS.

I, THOMAS H. DUVAL, Secretary of State of the State of Texas, certify that the second session of the fourth legislature of said State commenced its session at the City of Austin, on Monday, the tenth day of January, in the year one thousand eight hundred and fifty-three, and adjourned on Monday, the seventh day of February in the year one thousand eight hundred and fifty-three.

And I further certify, that the Acts and Joint Resolutions contained in this Volume are true copies, taken from the original rolls deposited in the Department of State, with which they have been carefully compared.

[Seal.] Given under my hand and Official Seal, at the City of Austin, the seventeenth day of March, in the year one thousand eight hundred and fifty-three.

THOMAS H. DUVAL.



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**L A W S**

**OF**

**THE FIFTH LEGISLATURE**

**OF**

**THE STATE OF TEXAS**

**PASSED AT ITS SESSION, CONVENEED NOVEMBER 7, 1853**

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**BY AUTHORITY.**

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**AUSTIN.**  
**1854**



# LAWS

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## CHAPTER I.

An Act authorizing two copies of the Seal of the Supreme Court to be made for the use of said Court.

Section 1. Be it enacted by the Legislature of the State of Texas, that the Clerk of the Supreme Court be, and he is hereby authorized to have made for the use of said court, two copies of the seal of said court. The one to be used by the said court sitting at Galveston, the other by said court sitting at Tyler, the expenses to be paid out of the contingent fund of said court.

Approved, December 15, 1853.

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## CHAPTER II.

An Act making an appropriation for the per diem pay and mileage of the members of the Fifth Legislature, and the per diem pay of the Officers of the same.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of fifty thousand dollars, or so much thereof as may be necessary, be, and the same is hereby appropriated, for the per diem pay and mileage of the members, and the per diem pay of the officers of the fifth Legislature of Texas. convened at Austin, on the seventh day of November, A. D. eighteen hundred and fifty-three, and that the certificate of the Secretary of the Senate and the Chief Clerk of the House of Representatives, shall be authority for the Comptroller to draw on the Treasurer for the several amounts that the members and officers are respectively entitled to, and that this act take effect from and after its passage.

Approved, December 23, 1853.

## CHAPTER III.

An Act authorizing the Commissioner of the General Landoffice to appoint additional Draftsmen and Assistant Clerks to his Department, and to fix the salaries of the Commissioner and all under his control.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Landoffice be authorized to employ two additional Assistant Draftsmen. and ten additional Assistant Clerks.

Section 2. That the salary of the Commissioner of the General Landoffice shall be two thousand dollars per annum.

The salary of his Chief Clerk shall be twelve hundred dollars per annum.

The salary of Spanish Clerk shall be twelve hundred dollars per annum.

The salaries of eight Assistant Clerks, each, shall be nine hundred dollars per annum.

The salaries of ten additional Clerks shall be eight hundred dollars each, per annum.

The salary of the principal Draftsman shall be twelve hundred dollars per annum.

The salaries of the first and second Assistant Draftsmen shall be eleven hundred dollars each, per annum. and the salaries of two additional Assistant Draftsmen shall be one thousand dollars each, per annum.

Sec. 3. That it shall be the duty of the Commissioner of the General Landoffice, at or before the expiration of twelve months from the adjournment of the present session of the Legislature, to discharge seven of the additional Assistant Clerks, and two of the additional Assistant Draftsmen provided for in the preceding sections.

Approved, December 26, 1853.



CHAPTER IV.

• An Act supplementary to an act entitled an act authorizing the Commissioner of the General Landoffice to appoint additional Draftsmen and Assistant Clerks in his Department, and to fix the salaries of the Commissioner and all under his control.

Section 1. Be it enacted by the Legislature of the State of Texas, That an act entitled an act authorizing the Commissioner of the General Landoffice to appoint additional Draftsmen and Assistant Clerks in his Department, and to fix the salaries of the Commissioner and all under his control, take effect and be in force from and after its passage.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved, December 26, 1853.

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CHAPTER V.

An Act to amend the fifth section of an act entitled an act to regulate Ferries, approved January 23, 1850.

Section 1. Be it enacted by the Legislature of the State of Texas, That the fifth section of the above recited act, be amended so as to read as follows:

Section 5. When a county court shall establish a ferry, they shall state in their record the rates of toll or ferriage, which may be demanded for ferrying passengers, carriages, wagons, carts, beasts and such other property as is usually transported by ferries; and the said courts may, at their first term in each year, and shall at any other term, upon the petition of twenty respectable citizens of the county, revise, and if deemed expedient, change the rates of toll or ferriage, at all ferries that have been or may be established in their county. All changes of the rates of ferriage shall be entered of record, and notice thereof furnished by the county clerks to owners of ferries affected by such changes; provided, no change of rate shall take effect until the expiration of thirty days from the day on which said change may be made; and provided, also, that where any owner of a ferry shall refuse to keep up the same

at the rates allowed by the county court, said court may issue a license to any one who will do so; but in all such cases, the party receiving such license shall be bound to take the ferry-boat in use at said ferry, if desired by the owner, at such valuation as two respectable citizens of the vicinity, one to be chosen by each party, shall place upon it.

Sec. 2. This act shall take effect from and after its passage.

Approved, January 5, 1854.

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#### CHAPTER VI.

An Act appropriating fifteen thousand dollars, to pay the Contingent Expenses of both Houses of the Legislature.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of fifteen thousand dollars, or so much thereof as may be necessary, be, and the same is hereby appropriated to pay the contingent expenses of both Houses of the Legislature, and that this act take effect from and after its passage.

Approved, January 5, 1854.

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#### CHAPTER VII.

An Act supplementary to an act granting relief to certain Pre-Emption Claimants, by extending the time within which said claimants are required, by the second section of an act, passed January the twenty-second, eighteen hundred and forty-five, "granting to settlers on vacant public domain Pre-emption Privileges," to have the land, including their improvements, covered with valid certificates.

Section 1. Be it enacted by the Legislature of the State of Texas, That nothing in the act passed tenth day of February, 1852, entitled "an act concerning surveys of land," shall be so construed as to embrace the field-notes of surveys made prior to the first day of January, 1851, for pre-emption claim-

ants, in virtue of an act passed on the twenty-second day of January, 1845, "granting to settlers on the public domain pre-emption privileges;" but the Commissioner of the General Land Office shall issue patents on the same in conformity to law: Provided, that the field-notes are returned by or before the first day of January, eighteen hundred and fifty-five.

Sec. 2. That this act take effect from and after its passage.

Approved, January 7, 1854.

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## CHAPTER VIII.

An Act making an appropriation for the payment of the Second Class Debt "B" of public debt of the late Republic of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of one hundred and twenty-five thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of any money in the Treasury, for the payment of the second class debt "B," of the debt of the late Republic of Texas, which has been or may be allowed and audited by the Auditor and Comptroller, under the provisions of an act approved February seventh, eighteen hundred and fifty-three, to extend the provisions of an act entitled an act to provide for ascertaining the debt of the late Republic of Texas, approved March twentieth, eighteen hundred and forty-eight.

Sec. 2. That the Treasurer in paying claims under the provisions of this act, shall be governed in all respects by the laws regulating the disbursement of money from the State Treasury, and that this act take effect from and after its passage.

Approved, January 18, 1854.

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## CHAPTER IX.

An Act to provide for the sale of the Furniture of the Old Capitol and the boxes which contained the new Furniture.

Section 1. Be it enacted by the Legislature of the State of Texas, That Mr. Thomas Ward be, and he is requested and

authorized to take possession of the furniture of the old Capitol, and the boxes which contained the new furniture, wherever the same may be found, and proceed to expose the same at public sale to the highest bidder, for cash, on the third Monday in January, eighteen hundred and fifty-four, and return the proceeds of the same to the Comptroller of the State, to be by him deposited in the State Treasury. And the Comptroller is hereby authorized to issue his warrant on the Treasurer in favor of the said Ward for an amount not to exceed ten per cent. upon the amount of the proceeds of the sale; and that this act take effect and be in force from its passage.

Approved, January 18, 1854.

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## CHAPTER X.

An Act to authorize the Sheriff of Calhoun county to execute Deeds in certain cases.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Sheriff of Calhoun county be, and he is hereby authorized to execute deeds of conveyance to all persons who may have purchased lands at any public sale made by James P. Fulkerson, deceased, late Sheriff of said county, and such deeds of conveyance shall have the same effect as if executed by said James P. Fulkerson. Provided, that said officer shall execute no such deeds unless proof shall have first been made before the District Court of Calhoun county, that the property proposed to be conveyed was actually sold by Sheriff Fulkerson upon some valid execution, order or judgment of the District Court, and also an affidavit filed that the execution and return of said officer has been lost or destroyed, which proof shall be made at the expense of the party applying for the conveyance.

Sec. 2. That this act take effect from and after its passage.

Approved, January 18, 1854.

CHAPTER XI.

An Act supplementary to An Act supplementary to and amending "An Act for the relief of the citizens of Mercer's Colony," of date February second, eighteen hundred and fifty.

Section 1. Be it enacted by the Legislature of the State of Texas, That the provisions of the act for the relief of the citizens of Mercer's Colony, of effect March twenty-third, eighteen hundred and fifty, shall apply and be in force in regard to all rights sought to be established, and all certificates issued under the provisions of the act to which this is a supplement. Provided, that no certificate shall be granted or issued under the provisions of this act, or the act to which this is a supplement, unless the applicant shall make all the proofs required by the above recited act, and shall also prove, by his or her own oath, supported by the oath of two respectable witnesses, that he, or his or her ancestors or decedents, as the case may be, emigrated to and settled within the limits of the territory commonly known as Mercer's Colony on or before the twenty-ninth day of January, A. D. eighteen hundred and forty-nine; and should any certificate be obtained by fraud, or perjury, or otherwise than according to the true intent and meaning of this act, such certificate, and the patent issued thereon, shall be utterly void.

Sec. 2. That the fifth section of an act supplementary to and amending an act for the relief of the citizens of Mercer's Colony, of date sixteenth of February, eighteen hundred and fifty-two, be and the same is hereby repealed; and that this act take effect from and after its passage.

Approved, January 21, 1854.

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CHAPTER XII.

An Act to authorize the County Court of Freestone County to levy an additional tax for the purpose of building a Courthouse.

Section 1. Be it enacted by the Legislature of the State of Texas, That the County Court of Freestone county is hereby authorized and empowered to levy an additional tax upon the

persons and property of all persons subject to taxation in said county of Freestone, for the purpose of building a Courthouse in said county, which shall be assessed and collected as other taxes. Provided, that the county tax shall not exceed one hundred per cent. on the State tax.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved, January 24, 1854.

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### CHAPTER XIII.

An Act to amend an act entitled "An Act to fix the pay and mileage of the Members of the Legislature," approved April 13, 1846.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Members of the Legislature, at each session hereafter to be held, shall receive from the Treasury of the State, as their compensation, five dollars for each day they shall be in attendance on the same, and five dollars for every twenty-five miles they may travel in going to, and returning from the place of convening the Legislature.

Approved, January 26, 1854.

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### CHAPTER XIV.

An Act making an appropriation of five thousand dollars for the indemnification of the owners of slaves executed since the 24th day of January, A. D. 1852.

Section 1. Be it enacted by the Legislature of the State of Texas. That the sum of five thousand dollars, (\$5,000 00,) or so much thereof as may be necessary, is hereby set aside and appropriated out of any money not otherwise appropriated in the Treasury, for the purpose of carrying out the provisions of "an act entitled an act to indemnify the owners for the loss of slaves executed for capital offences," approved January 24th, 1852.

Sec. 2. That this act take effect from and after its passage.

Approved, January 26, 1854.

CHAPTER XV.

An Act to encourage the construction of Railroads in Texas by donations of lands.

Section 1. Be it enacted by the Legislature of the State of Texas, That any railroad company chartered by the legislature of this State, heretofore or hereafter, constructing within the limits of Texas, a section of twenty-five miles or more of railroad, shall be entitled to receive from the State a grant of sixteen sections of land for every mile of road so constructed and put in running order.

Sec. 2. That any railroad company having actually put under contract as much as twenty-five miles of its road or its entire road when the length may not exceed twenty-five miles, upon filing a certified copy of such contract with the Commissioner of the General Landoffice, and upon depositing with the Treasurer of the State a bond with two or more good sureties, to be approved by him in favor of the Governor of the State, in the sum of ten thousand dollars, conditioned as hereinafter required, may file an application with any district surveyor of any land district in this State, a copy of which application shall in all cases be forwarded to the Commissioner of the General Landoffice by the district surveyor, to survey any quantity of the public domain lying and being in such district, and subject to location and entry, not to exceed eight hundred sections, and said application shall specifically describe the lands applied for and intended to be surveyed; and if said company shall produce and file with the district surveyor a certificate of the Commissioner of the General Landoffice, that a copy of its contract has been filed in said office for the construction of twenty-five miles or more of said road; and also a certificate from the Treasurer that a bond as required by this act has been deposited in his office, said application shall exempt the land so designated from any future location, entry or pre-emption privilege, until otherwise directed as hereinafter provided; provided, that no application for a survey of lands under the provisions of this act, shall be made for more than six months before the completion of such section; and if said section be not completed and notice thereof given as herein provided within six months from the time of the application, then such land applied for shall become subject to location and entry as if no such application had been made.

Sec. 3. That it shall be the duty of said company to cause to

be surveyed the land so designated, into sections of six hundred and forty acres each, and in square blocks of not less than six miles, unless prevented by previous surveys or a navigable stream, which surveys shall be delineated upon a map or maps, the even and odd sections being differently colored and regularly numbered from one upwards to the full number contained in the block, and the field-notes of said surveys and map or maps, shall be by said company deposited with the Commissioner of the General Landoffice.

Sec. 4. That the condition of the bond mentioned in the second section of this act shall be, that said company will cause to be surveyed the land designated and applied for within the time limited for the construction of said section of twenty-five miles by the contract, and in the manner required by the third section of this act; and shall actually construct the said section of twenty-five miles of said road within the time mentioned in said contract, in default of which said land shall become forfeit to the use of the State, which forfeiture shall be declared by the District Court of Travis county, at the first term thereafter, without other formality than as hereinafter provided.

Sec. 5. That if at the time stipulated in said contract for the completion of said section of twenty-five miles, the field-notes and map or maps of the land applied for, be not deposited in the General Landoffice as herein required, it shall be the duty of the Commissioner to forward immediately to the Treasurer of the State and the District Surveyor of the land district where the land applied for is situate, a certificate of the fact, whereupon the land so applied for shall become subject to location and entry by any one, as if no such application had been made; and it shall be the duty of the Treasurer ten days before the session of the District Court of Travis county, to cause notice of such forfeiture to be advertised in one of the newspapers published at Austin for two successive weeks; and at said session of the District Court, it shall be the duty of the Attorney-General, or in case he be not present, of the District Attorney, to file a motion for the forfeiture of said bond, whereupon said court shall proceed without other citation or notice, to declare said bond absolutely forfeited, and to render judgment against said company and sureties for the amount of said bond, upon which judgment execution shall issue as in ordinary cases; provided, that it shall be necessary for the Attorney-General or District-Attorney to file with said motion a certified copy of said bond under the hand and seal of the



Treasurer, and also a copy of the contract deposited in the General Landoffice, and a certificate of the Commissioner that said surveys and map or maps of the lands applied for have not been returned.

Sec. 6. That any Railroad company having completed and put in running order a section of twenty-five miles or more of its road, may give notice of the same to the Governor, whose duty it shall be to appoint some skillful engineer, if there be no State engineer, to examine said section of road, and if upon the report of said engineer, under oath, it shall appear that said road has been constructed in accordance with the provisions of its charter, and of the general laws of the State in force at the time regulating railroads, thereupon it shall be the duty of the Commissioner of the General Landoffice to issue to said company patents for the odd sections surveyed in pursuance of the second and third sections of this act; but in case said lands or any part thereof shall not have been surveyed at the time said section is completed, then it shall be the duty of said commissioner to issue to said company certificates of 640 acres each, equal to sixteen sections per mile of road so completed, whereupon said company may apply to the District Surveyor of any land district in this State, to survey any quantity of vacant land subject to location and entry in such district, not to exceed twice the quantity of certificates so issued, which surveys shall be made, numbered and colored as directed in the third section of this act, and upon the return of the field-notes and map or maps of such surveys to the General Landoffice, and the certificates so issued, it shall be the duty of the Commissioner to issue to said company patents for the odd sections of said surveys; provided, that in case the surveys are not applied for before the completion of any section of road, it shall not be necessary to deposite with the Treasurer a bond as required in the second section of this act.

Sec. 7. That fractional sections, containing more than 320 acres, shall be regarded as whole sections; and two fractional sections, each containing less than 320 acres, shall be taken as a whole section under the provisions of this act; and all the alternate or even sections shall be reserved to the use of the State, until appropriated by law.

Sec. 8. That surveys under the provisions of this act may be made by persons employed by the company, and the field-notes may be deposited with the Commissioner of the General Landoffice without being recorded in the office of the District Surveyor; provided, that the State in no case shall be liable for sur-

veying any part of said lands nor shall any company pay for the fees of patenting the odd sections as herein provided.

Sec. 9. That any railroad company in this State acquiring lands or other real estate by virtue of the provisions of this act, or by virtue of the provisions of any other act or charter enacted by the legislature of the State of Texas, by purchase, donation or otherwise, shall proceed to alienate the same except so far as may be necessary to the maintenance and running of said road, in six, eight, ten and twelve years; that is, one-fourth shall be alienated in six years, one-fourth in eight years, one-fourth in ten years and one-fourth in twelve years from the time of acquiring such lands or real estate, in such manner that the whole of such lands or real estate shall pass out of the hands of such company within twelve years from the date of its acquisition; provided, moreover, that said lands and real estate shall in no instance be alienated to any other corporation, except so far as may be necessary for the proper uses and the conduction of the business of such corporation.

Sec. 10. That if any company should neglect or fail to alienate its lands or real estate, as herein directed, evidences of which alienation said company shall cause to be filed with the Secretary of State, it shall be the duty of that officer to notify the Comptroller of Public Accounts and Commissioner of the General Land-office of such failure to alienate, whereupon the Commissioner shall furnish the Comptroller with a list of the lands acquired by said company under this or any other act of the legislature of the State, and the dates at which such lands were acquired; and the Secretary of State shall also furnish the Comptroller with a schedule of the lands owned and alienated by said company, as the same appears from the last annual return made to his office by said company, in pursuance of the general law of the State regulating railroad companies; and it shall be the duty of the Comptroller of Public Accounts, immediately upon receiving said returns, to cause to be advertised in the newspapers in the City of Austin for sale, sixty days after such advertisement, the lands herein directed to be alienated, proceeding in the order in which said lands and real estate were granted or deeded to said company; and after deducting all necessary expenses of the sale, the balance shall be deposited with the Treasurer to the credit of said company.

Sec. 11. That all the alternate or even sections of land, surveyed in pursuance of the provisions of this act, or of any other act of the Legislature of this State, donating lands to

any railroad company, shall be reserved to the use of the State, and not liable to locations, entries or pre-emption privileges, until otherwise provided by law.

Sec. 12. That the provisions of this act shall not extend to any company receiving from the State a grant of more than sixteen sections of land, nor to any company for more than a single track road, with the necessary turnouts; and any company now entitled by law to receive a grant of eight sections of land per mile for the construction of any railroad, accepting the provisions of this act, shall not be entitled to receive any grant of land for any branch road; provided, this act shall not be so construed as to give to any company now entitled by law to receive eight sections of land, more than eight additional sections; provided, that no person or company shall receive any donation or benefit under the provisions of this act, unless they shall construct and complete at least twenty-five miles of the road contemplated by their charter within two years after the passage of this act; and such donations shall be discontinued in every case where the company or companies shall not construct and complete at least twenty-five miles of the road contemplated by their charter, each year after the construction of said first mentioned twenty-five miles of road; and further provided, that the proviso herein contained shall not extend to any railroad, the terminus of which is not fixed on the Gulf coast, the Bays thereof, or on Buffalo Bayou, and that nothing in this section shall be so construed as to extend the duration of any existing charter; and further provided, that the certificates for land issued under the provisions of this act, shall not be located upon any land surveyed or titled, previous to the passage of this act; and further provided, that this act shall continue in force for the term of ten years from the time it shall take effect and no longer.

Sec. 13. That no railroad hereafter to be built shall be entitled to receive the additional sections of land herein granted, unless the railings of such road shall weigh at least fifty-four pounds to the yard.

Approved, January 30, 1854.

## CHAPTER XVI.

An Act Supplemental to "An Act to encourage the construction of railroads in Texas, by donations of land."

**Section 1.** Be it enacted by the Legislature of the State of Texas, That no railroad company availing itself of the provisions of the act to which this is a supplement, shall receive more than sixteen sections of land to the mile by virtue of said act, or any proviso therein contained. And no road benefitted by said act, shall receive any donation of land under its charter, or under the act to which this is a supplement, for any work done within ten years after the passage of this act; and this act shall be in force at the same time that the act to which this is a supplement shall take effect.

Approved, January 30, 1854.

## CHAPTER XVII.

An Act supplementary to "An act making appropriations to defray the expenses of three companies of Volunteers called into the service of the State for the protection of the frontier," approved January twenty-ninth, eighteen hundred and fifty-three.

**Section 1.** Be it enacted by the Legislature of the State of Texas, That the sum of four thousand five hundred and fifty-five dollars be, and the same is hereby appropriated to pay the balance due for subsistence, forage, Quartermaster's stores and transportation, as per vouchers now on file in the Comptroller's office, for three companies of troops called into the service of the State in eighteen hundred and fifty-two, and commanded by Captains Shaw, Lewis and Davis, to be paid out and disbursed as provided for in the act to which this is a supplement.

**Sec. 2.** That this act take effect from and after its passage.

Approved, January 30, 1854.

## CHAPTER XVIII.

## An Act to establish a System of Schools.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of two millions of dollars of the five per cent. bonds of the United States, now remaining in the treasury of the State, be set apart as a school fund, for the support and maintenance of Public Schools, which shall be called the Special School Fund, and the interest arising therefrom shall be apportioned and distributed for the support of the schools as herein provided.

Sec. 2. That the Chief Justice and County Commissioners shall constitute a board of School Commissioners for each county, whose duty it shall be, during the year eighteen hundred and fifty-four, to form their respective counties into school districts of convenient size, and number the same, so that each district in a county shall be known by its appropriate number. Provided, however, that in forming said districts the convenience of neighborhoods shall be regarded as much as possible, and each school district shall contain a sufficient number of children for the maintenance of a school. They shall also, at the same time, order an election by the qualified voters of each school district, for three Trustees for each district, giving ten days' notice of said election, by posting up advertisements of the same at one public place at least, in each district, stating fully the time and places of holding, and the object of said election.

Sec. 3. It shall be the duty of the Chief Justice to appoint a suitable person in each district to preside at the election in his district, who shall make his returns within ten days to the Chief Justice of the county, and the said elections shall, in all other respects, be governed by the laws regulating elections.

Sec. 4. The District Trustees so elected, shall elect from their number a chairman, who shall, whenever it may be deemed necessary, call a meeting of the trustees and preside at their deliberations, and perform such other duties as may hereafter be assigned him.

Sec. 5. That it shall be the duty of the Assessor and Collector of each county in the state, during the year eighteen hundred and fifty-four, and every year thereafter, to make out a list of all the free white population in his county, between the ages of six and sixteen years, particularly designating the number of persons between such ages in each school district,

and transmit the same, under his hand and official signature, to the County Clerk of the county, and a certified copy thereof to the Treasurer of the State, on or before the first day of July, in each year and every year.

Sec. 6. That it shall be the duty of the Clerk of the County Court to file and preserve in his office the election returns and the list aforesaid furnished by the Assessor and Collector.—It shall be the duty of the Treasurer of the State to ascertain, from the abstracts transmitted to him by the Assessor and Collector, the aggregate population between the ages of six and sixteen years, and so much of the fund appropriated by this act as may be in the treasury shall be apportioned among the different counties in the State, according to the number of the population of scholastic age in each county, subject to the order of the county courts, and payable to the respective County Treasurers, upon the order of such County Court, under the hand of the Chief-Justice and the seal of the Court, or such amount may be placed to the credit of the Assessor and Collector of taxes of such county, upon his payment into the county Treasury of his county the amount so apportioned to such, and filing the receipt of the county Treasurer, acknowledged by said Treasurer before the Clerk of the County Court, and by the said Clerk, duly certified, under his hand and the seal of his court, with the Treasurer of the State.

Sec. 7. That it shall be the duty of the District Trustees to fix the time and place for holding an election in their respective districts (for the location or selection of school houses within their respective districts) and to appoint a presiding officer.—That the chairman of the board of trustees shall cause written notices of said election to be posted up for at least five days next preceding the election, in three public places in each school district. That the returns of said election shall be made within five days to the chairman of the said board, who shall examine the same in presence of his co-trustees; and a majority of the votes polled in a district shall be necessary to the permanent location of a school house; and no change of the location of a school house thus located shall be made, except by a majority of two-thirds of those voting in such election, taken after due notice as above provided.

Sec. 8. That no money shall be drawn from the county Treasury for school purposes in any school district, until the people of such district shall have provided a good and substantial school house, with the necessary seats and other fixtures, and that the money appropriated by this act shall be applied only towards the payment of teachers for each school.

Sec. 9. That it shall be the duty of the school trustees for each district, as nearly as practicable after their election, by giving due notice, to call a meeting of all the patrons of the school in the district, and a majority of those present shall indicate to the trustees the length of time during the year they desire a school, the kind of teacher they want and the amount of salary they are willing to pay. It shall be the duty of said trustees, to observe, as far as possible, such instructions, to employ teachers of suitable moral character and qualifications, to visit from time to time the district school or schools under their charge, to expel a pupil for misconduct, to examine all complaints between teacher and pupil of a serious character, to discharge a teacher for incapacity or improper conduct, and generally to exercise supervision over the affairs of the school within their district.

Sec. 10. That the teacher of each school shall be required to keep a roll or day book, and at the close of his term of service to furnish said school trustees with a tabular statement of the names of all the patrons and pupils of the school; the number of pupils sent by each patron, and the number of days attendance by each pupil, which statement shall be supported by his affidavit, made before some officer authorized to administer oaths, that the same is true and correct.

Sec. 11. That it shall be the duty of said trustees, upon receiving the shares of the school fund to which their school district is entitled, to apply the same towards the payment of the teacher's salary, and the remainder of said salary, if any, to apportion equally among the patrons of the school according to the number of pupils and the time sent by each to the school; and if any such patron should neglect or refuse to pay his share of the salary apportioned as aforesaid, said trustees may institute suit against him or her for the amount of money due, and the tabular statement furnished them, under oath, by the teacher, and mentioned in the preceding section of this act, shall be prima facie evidence of such indebtedness.

Sec. 12. If any patron or patrons of the school are unable to pay their share of the salary apportioned as aforesaid, and the said trustees be satisfied of the fact, it shall be the duty of said trustees to make out a list of all such patrons in the district, together with the amount of money due from each for tuition, and forward the same under their own proper signatures to the Chief-Justice of the county.

Sec. 13. That the Chief-Justice of each county shall annually furnish the Treasurer of the State with a statement under his

hand and seal of the county, of the amount of money due for tuition from all such patrons as are exempt under the preceding sections of this act, in the county, according to the list returned by the school trustees. And the Treasurer of the State is hereby authorised and required to pay said amounts of money due from the patrons so exempt, out of the school fund derivable from taxation and created by the Constitution of the State, and he shall distribute the same in manner and form as provided in the sixth section of this act.

Sec. 14. That the County Treasurer of each county shall give bond with two or more securities, payable to the county, in twice the amount of the school fund to which his county shall be entitled, so soon as the Chief-Justice shall be notified by the Treasurer of the State of the amount to which his county is entitled, which bond shall be conditioned that he will well and faithfully keep an account for the money to him committed as a school fund for his county, and pay out the same only upon the order of the Chief-Justice of the county, under his hand and the seal of the County Court. He shall also enter into a bound book, to be kept by him for that purpose, all moneys received, all moneys paid out, and to whom and when paid, and register and number all orders by him paid or accepted to be paid, which book, together with such orders, shall be by him exhibited at his annual settlement with the County Court. That after the year eighteen hundred and fifty-four, his said bond shall be renewed, between the first and tenth of September of each year; that all suits upon such bonds shall be in the name of the county, and in other respects they shall be governed by the laws relating to the bonds of County Treasurers.

Sec. 15. That the trustees of each school district shall be elected annually after the year eighteen hundred and fifty-four, on the first Monday in September, in the manner herein provided; that they shall be a body corporate and politic, by the corporate name of the Trustees of Common School District No. ———, (filling the blank with the number of the District.) and for the purposes for which they are created, may sue and be sued, hold and dispose of property, and do such acts and things as are incidental and necessary to the performance of their duties.

Sec. 16. That the Treasurer of the State shall be ex-officio Superintendent of Common Schools in this State, and it shall be his duty immediately after the first day of September in each and every year, to record the abstracts of children of lawful age in the different counties, and apportion the moneys as



herein contemplated, distributing to the several counties the amount to which each is entitled, according to its scholastic population, ascertained in the manner herein prescribed, and also the amount due for the tuition of children exempt from tuition fees; and it shall further be the duty of the Treasurer of the State, to provide the necessary record books, to be by him kept exclusively for recording abstracts, as herein contemplated, and keeping a full and perfect account of all investments and moneys belonging or in any wise appertaining to the Common School Fund of this State, and all apportionments and distribution of moneys by him made for common school purposes; and he shall report to the Governor annually, on or before the first day of October, the condition of the common school fund, and also make to each regular session of the Legislature such suggestions in regard to the Common School system as may be deemed advisable; that the fiscal scholastic year shall commence on the first day of September and end on the first day of August in each and every year from and after the first day of September next.

Sec. 17. That it shall be the duty of the chairman of the board of trustees for each school district, to present, at least once a year, his application to the Chief-Justice of his county for such amounts of said fund as his district may be entitled to receive, according to the number of children between the ages heretofore prescribed within his district, and also present his application to the Chief-Justice annually for the amount of money due his district for the tuition of children exempt from tuition fees; and the said Chief-Justice, having duly informed himself that the same is correct, shall draw upon the County Treasurer an order, under his hand and seal of the County Court, for the amount or amounts so due and demanded.

Sec. 18. That nothing in this act shall prevent the trustees of any school district, after being instructed by a majority of the patrons of schools in such district, from employing the teacher of a primary department in any college or academy, and converting such primary department into a common school for such district; and that this act take effect from and after its passage.

Approved, January 31, 1854.

## CHAPTER XIX.

## An Act concerning Offences against Life or Person.

Section 1. Be it enacted by the Legislature of the State of Texas, That any person being at the time within or without the limits of the State of Texas, who shall commit any offence against the life or person of another, specified in an act passed the twentieth day of March 1848, entitled, "an act concerning crimes and punishment," that other, being within the limits of the State; or that any person being within the limits of the State of Texas, shall commit any offence specified as aforesaid against the life or person of another, that other being within or without the limits of the State, shall be punished as specified in said act, and in cases of homicide, the offence shall be made out by proof, and in all cases where the deceased died without the limits of the State, the same may be given in evidence, and the same consequence shall attach to such proof, as if the deceased had died within the limits of the State.

Approved, January 31, 1854.

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CHAPTER XX.

## An Act to provide for the issuance of Bounty and Donation Land Warrants, to persons entitled to the same.

Section 1. Be it enacted by the Legislature of the State of Texas, That whenever any person shall be entitled by existing laws, to any bounty or donation land, for services as a soldier of the Republic of Texas, the Adjutant-General shall issue a warrant for the same, upon presentation of the certificate of any officer of the company in which said service shall have been rendered, stating said service: provided, the name of the party applying for said land warrant shall appear upon the muster rolls of said company.

Sec. 2. That where the name of the person applying for such bounty or donation land, does not appear on any muster-roll on file in the office of the Adjutant-General, or where all of the officers of such company shall have died or removed beyond the limits of the State, the Adjutant-General shall be

authorized to issue such bounty or donation land warrant upon presentation by the party applying therefor, of an affidavit of two or more persons, and whose names do appear on said muster-roll, who shall have served in the same company, setting forth the date and time of service of said party so applying.

Sec. 3. That any genuine discharge signed by any captain or other commissioned officer, commanding division, when there is no muster-roll on file in the Adjutant-General's office, but when the same has been allowed for pay by the Auditor and Comptroller, shall constitute a sufficient voucher to authorize the Adjutant-General to issue bounty warrants for the amount of land to which they are entitled by law.

Sec. 4. That all laws conflicting with the provisions of this act are hereby repealed, and that this act take effect from and after its passage.

Approved, January 31, 1854.

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## CHAPTER XXI.

**An Act to define the Fourth and Second Judicial Districts of Texas, and to prescribe the time of holding Courts therein.**

Section 1. Be it enacted by the Legislature of the State of Texas, That from and after the passage of this act, the counties of Bexar, Guadalupe, Comal, Gillespie, Medina and Uvalde, shall constitute the fourth Judicial District of Texas.

Sec. 2. That the District Court shall commence in the county of Bexar, on the first Mondays of March and September of each and every year, and may continue in session five weeks.

In the county of Gillespie on the fifth Mondays after the first Mondays in March and September, and may continue in session two weeks.

In the county of Comal on the seventh Mondays after the first Mondays in March and September, and may continue in session one week.

In the county of Guadalupe on the eighth Mondays after the first Mondays in March and September, and may continue in session two weeks.

In the county of Medina on the tenth Mondays after the first Mondays in March and September, and may continue in session one week.

In the county of Uvalde on the eleventh Mondays after the first Mondays of March and September, and may continue in session one week.

Sec. 3. That the terms of the District Courts of the Second Judicial District, shall be held in each county in the district twice in each year, as follows:

In the county of Fayette in the first Mondays in March and September, and may continue in session two weeks.

In the county of Bastrop on the second Mondays after the first Mondays in March and September, and may continue in session two weeks.

In the county of Caldwell on the fourth Mondays after the first Mondays in March and September, and may continue in session two weeks.

In the county of Hays on the sixth Mondays after the first Mondays in March and September, and may continue in session one week.

In the county of Burnet on the seventh Mondays after the first Mondays in March and September, and may continue in session one week.

In the county of Travis on the eighth Mondays after the first Mondays in the months of March and September, and may continue in session until the business is disposed of.

Sec. 4. That all laws and parts of laws heretofore enacted relating to the time of holding the several courts in the said Second Judicial District be, and the same are hereby repealed, and that all process which has been issued and made returnable to the several courts of said District, shall be, and are hereby made returnable to the said courts respectively, at the periods of their sessions as specified in this act, and that all recognizances and bonds entered into by any person or persons in said courts, with reference to the period of their respective sessions under the laws heretofore in force, shall be and are hereby made obligatory upon the parties, with reference to the terms of said courts respectively, as prescribed by this act.

Sec. 5. That all process made returnable to the District Courts of any of said counties, as prescribed by law at the present time, shall be returnable to the terms of said courts as herein prescribed; and that this act take effect and be in force from and after its passage.

Approved, February 1, 1854.

CHAPTER XXII.

An Act extending the time for the return of field-notes of claimants to Land in Fisher and Miller's Colony and in Castro's Colony.

Section 1. Be it enacted by the Legislature of the State of Texas, That the time for the return of field-notes to the General Landoffice of claimants to land in Fisher and Miller's and Castro's Colonies be, and the same are hereby extended to the first day of March, eighteen hundred and fifty-five.

Sec. 2. That this act shall not be construed as to extend to any other claim except those of the Colonists or their assigns.

Sec. 3. That this act take effect from and after its passage.

Approved, February 1, 1854.

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CHAPTER XXIII.

An Act for the relief of the Colonists of Fisher and Miller's Colony.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioner of the General Landoffice be, and he is hereby authorized and required to issue patents to, and in the name of any of Fisher and Miller's Colonists, their heirs or assigns, who may present correct surveys, made or to be made in said colony, in pursuance of legally authorized colony certificates, for the quantity of land designated in such certificate.

Sec. 2. That where clear and evident mistakes have been committed by the Commissioner of said Colony, as the granting of a section or tract which has no existence, or where existing, has been previously granted to another, or where the Colonist is ascertained in his certificate to be entitled to a larger or smaller amount of land than is given, or set apart to him in the same certificate, in these and in such like cases of palpable error, the Commissioner of the General Landoffice is hereby authorized by endorsement on said

certificate, to correct the error therein, and if necessary, to make the same, either wholly or partly, a floating certificate.

Sec. 3. That all floating Colony certificates now issued, or that may hereafter be issued by virtue of this act, and such others as may loose their right to be fixed or located on certain surveys, may be located in the office of the surveyor in whose district said colony may be situated, and be surveyed and patented under the same rules and restrictions as other land certificates; Provided only, that said Colony certificates shall be confined to the limits of Fisher and Miller's Colony, and shall not be surveyed on any of the alternate sections which are reserved by the State, as shown by the Colony map now in the General Landoffice.

Sec. 4. That where too much land is found to be contained in surveys heretofore given by Commissioners, the overplus may, on application and payment to the Commissioners of the General Landoffice, of fifty cents per acre, or presenting to the Commissioner of the General Landoffice a Colony certificate unlocated, to be cancelled to the extent of the excess, be included in said patent.

Sec. 5. That all of the sections or surveys which have been set apart and undertaken to be given by the Colony Commissioners of said Colony, and named in the respective certificates as exhibited on the map of said Colony now on file in the General Landoffice, may be patented by the Commissioner of the General Landoffice, although the strict rule for the reservation of alternate sections has not been followed.

Sec. 6. That the sum of one dollar shall be paid for a Colony patent, and where parts of sections are given in the same Colony certificate, all of said parts shall be included in one or more patents at the option of the party.

Sec. 7. That this act take effect from and after its passage.

Approved, February 1, 1854.

CHAPTER XXIV.

An Act to enable Henry F. Fisher and Burchard Miller to perfect titles to the land for which certificates have been issued to them within the limits of Fisher and Miller's grant.

Section 1. Be it enacted by the Legislature of the State of Texas, That Henry F. Fisher and Burchard Miller be, and they are hereby authorized and empowered to locate and have surveyed, any of the vacant and unappropriated land within the limits of Fisher and Miller's Colony, by virtue and in satisfaction of certain certificates issued to them by the commissioner of said Colony, appointed under the provisions of an act approved on the 21st day of January, 1850, entitled "an act to secure to the German Emigration company and their colonists, the lands to which they are entitled, and to adjust the liabilities of said company." And the District Surveyor of the land district in which any of said lands may be so located is hereby required to survey the same and certify the field-notes thereof to the Commissioner of the General Landoffice, in the same manner prescribed for the return of other field-notes of surveys; and the Commissioner of the General Landoffice shall issue patents on such surveys in like manner as other lands are directed to be patented.

Sec. 2. That said Fisher and Miller be, and they hereby are authorized to use and apply to their said certificates, the field notes of any surveys made by the surveyor for the German Emigration company, within the limits of said Colony, which they may procure from said surveyors, or any one of them, by paying them their respective fees for surveying the same, and that this act shall not divest, change or alter any right, interest or lien that third parties may have under the 11th section of the act of the 21st of January, 1850, or any other act, or the reserved rights of the State under the original contract, within the limits of said Colony.

Sec. 3. That this act take effect from and after its passage.

Approved, February 1, 1854.

## CHAPTER XXV.

## An Act for the relief of the Colonists of Peters' Colony.

Section 1. Be it enacted by the Legislature of the State of Texas, That settlers of Peters' Colony who may have filed their claims with the agent of said Colony, in error upon lands other than claimed by them, or where the same does not correspond with the field notes of their survey, they shall have the right to correct their files, and return the same, certified to by the surveyor of the District in which the lands may be situate, upon their making affidavit of such error to the Commissioner of the General Landoffice, to be returned and filed with the field-notes.

Sec. 2. That files made with the Commissioner of the General Landoffice by the Colonists of Peters' Colony or their Agents or Assigns, after the 7th of May, 1853, shall be as valid as if made prior to that date; and this act to take effect from and after its passage.

Approved, February 1, 1854.

## CHAPTER XXVI.

## An Act giving three weeks' Session to the District Court of Red River County.

Section 1. Be it enacted by the Legislature of the State of Texas, That the District Court of the county of Red River, in the eighth Judicial District, may remain in session three weeks, or until the business is disposed of.

Sec. 2. That this act shall be in force from its passage.

Approved, February 1, 1854.



CHAPTER XXVII.

An Act confirming certain Headright grants of Land lying on the Boundary line of Robertson's Colony and Austin's Little Colony.

Section 1. Be it enacted by the Legislature of the State of Texas, That the headrights of land granted to Colonists before the thirteenth day of November, A. D. eighteen hundred and thirty-five, and lying and being intersected or crossed by the boundary line of Robertson's Colony and Austin's Little Colony, and being part in one of said Colonies and part in the other, are hereby declared to be as valid as if such headrights were lying and being wholly within the Colony where such headright grants were issued; provided, that nothing herein contained shall be so construed as to affect the rights of third parties.

Sec. 2. That this act shall not extend to any grant which is fictitious, forged or otherwise fraudulent; and that this act take effect from its passage.

Approved, February 2, 1854.

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CHAPTER XXVIII.

An Act making an appropriation to pay for publishing the Proclamations of the Governor for the years eighteen hundred and fifty-two and eighteen hundred and fifty-three.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of five thousand dollars, or so much as may be necessary, be, and the same is hereby appropriated out of any money in the Treasury not otherwise appropriated, for the pay of publishing the proclamations of the Governor for the years eighteen hundred and fifty-two and eighteen hundred and fifty-three, and the Treasurer is hereby authorized to pay the same upon the certificate of the Secretary of State; and that this act take effect and be in force from its passage.

Approved, February 2, 1854.

## CHAPTER XXIX.

An Act relinquishing to the Counties the State Tax for the years eighteen hundred and fifty-four and eighteen hundred and fifty-five.

Section 1. Be it enacted by the Legislature of the State of Texas, That nine-tenths of the State tax hereafter to be collected under existing laws, on the assessment to be made for the years eighteen hundred and fifty-four and eighteen hundred and fifty-five, are hereby relinquished to the respective counties where said tax is assessed, to be disbursed for the benefit of said counties at the discretion of the respective County Courts of said counties.

Sec. 2. Said tax to be assessed and collected by existing laws regulating the same, and returns of the assessment rolls, and one-tenth of said tax passed to the credit of the free common school fund, shall be made by the Assessors and Collectors to the Comptroller at the time provided by law, and it shall be the duty of the said Assessors to use the forms and pursue the instructions of the Comptroller as heretofore. And the County Courts shall exercise a general supervision over the Assessor and Collector and Treasurer of their respective counties, and in case of any delinquencies or defalcations of said officers, said Courts shall have power to remove or suspend said officers, and do any other thing necessary to the protection of the interests of the county and State and the punishment of said offending officer or officers.

Sec. 3. The Assessor and Collector shall monthly pay over to the Treasurer of the county all monies collected under this act, and report to the County Court at each regular meeting, the time and amounts of said payments, and submit to said court whenever required, his books and accounts, and also make an annual statement, at the same time he is now required to make his final settlement with the Comptroller under existing laws, and it shall be his duty to use the forms and pursue the instructions of the Comptroller as heretofore: provided, said Assessors and County Treasurers shall collect and account for gold and silver only.

Sec. 4. That the liability of the Assessor and Collector shall be as heretofore, and as provided for in section second; and in the event of any Assessor and Collector failing or refusing to comply with the laws regulating the assessment and collection

of taxes, said officer and his securities shall be prosecuted by the District Attorney of the District where such officer resides, on the bond or bonds he may have executed to the State of Texas and county, for the faithful discharge of such officer's duty, and a certified copy of such bond by the County Clerk of the county where such bond is of record, shall be entitled to the same degree of credit that the original bond would be if produced in Court.

Sec. 5. It shall be the duty of the District Attorneys of the different Districts to prosecute all delinquent tax Collectors, when notified by the County Court that such officers, if residing within their respective Districts, has failed to assess and collect the taxes in such county, in the manner provided for by law; and a statement of such officers accounts, certified by the court of the county shall be prima facie evidence of such officer's delinquency, and the District Attorney shall prosecute the cause in the manner now provided for by law, and the proceeds of such prosecution shall be paid into the county Treasury.

Sec. 6. The Treasurer of the county shall report to the County Court of his county at each regular meeting of said court, the amount of money in the Treasury, when, and from whom received, and account for all monies paid out, none of which shall be disbursed, except by order of the County Court on the warrant of the Chief-Justice, attested by the County Clerk. He shall enter into bond to the county, in a sum which the County Court may consider double the probable amount of the relinquished State tax for the term of two years, in addition to the bond now required by law, and his liability shall be as heretofore.

Sec. 7. The pay allowed the Assessor and Collector for going to and returning from the seat of government settling his accounts, shall be as heretofore provided by law, the same to be paid out of the County Treasury on the certificate of the Comptroller, that said Assessor has settled his accounts.

Sec. 8. The Comptroller shall, as heretofore, receive the taxes due from non-residents, and pay the same to the Assessors and Collectors of the counties where the property so paid upon it situated for the benefit of such counties. It shall be the duty of the Comptroller to ascertain upon what real estate the taxes have not been paid, and to take the needful steps to enforce the payment of the amount due on such property, as provided for in the taxation act approved February the eleventh, eighteen hundred and fifty.

Sec. 9. The County Treasurer shall be entitled to receive one and a half per cent. for receiving and the same rate for paying out monies received under this act and no more; and this act shall take effect and be in force from and after its passage.

Vetoed by the Governor, and passed the Senate by a two-thirds vote, on the 27th of January, and the House on the 2nd February, A. D. 1854.

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## CHAPTER XXX.

### An Act to regulate Mustang Chases.

Section 1. Be it enacted by the Legislature of the State of Texas, That there shall be appointed by the Governor an agent, whose duty it shall be to superintend and regulate all mustang chases west of the San Antonio river, as hereinafter provided.

Sec. 2. That any citizen of this State wishing to chase mustangs or wild cattle, shall apply to and receive from the Chief Justice of any of the counties of this State lying west of the San Antonio river, a written permit, with the seal of his office thereto attached, which shall include the name of himself and associates, and the time for which said permit is given, which time shall not be longer than six months, subject to renewal.

Sec. 3. That the person so applying shall give bond and security in the sum of three hundred dollars, payable to the Chief-Justice of the county extending the said permit; conditioned that all the provisions of this act shall be complied with.

Sec. 4. That the person so applying shall be responsible for the orderly conduct of their associates, and that all animals taken in the chase shall be presented and such taxes paid thereon as shall be prescribed by law; that they shall pay to the Chief-Justice and County Clerk of the corresponding county the sum of fifty cents for each application.

Sec. 5. That it shall be the duty of the agent so appointed to visit all the mustang chasers within his district at least once in every three months; that he shall demand and receive from those holding a permit, a list of the animals taken in the chase, and shall keep a register thereof, he shall also collect the taxes which may be assessed thereon, in pursuance with the provi-

sions of this act, and each list so registered shall be signed by the person registering with the amount of tax paid thereon, and it shall be the duty of the agent, on or about the first Monday of November in each year, to make a correct return, on oath, to the respective Chief-Justices of the several counties who may have given permits, of the number and class of all animals registered, and the amount of taxes paid on licenses issuing from their counties.

Sec. 6. That there shall be paid to the said agent, by the parties holding licenses, the sum of twenty-five cents on each and every unmarked or unbranded horse, mare, colt, cow or bull, and a tax of two dollars on each and every mule so presented.

Sec. 7. That the agent shall be entitled to retain fifty per cent. of all moneys so collected by him under the provisions of this act, for his own benefit, and he shall pay over the residue to the Chief-Justices of the several counties, according to the amount received on licenses issued from their counties, which sums shall be for the use and benefit of said county.

Sec. 8. That all branded beasts taken in the chase shall be disposed of according to the estray law.

Sec. 9. That said agent shall, before entering upon the discharge of his duties, file with the Governor of the State a bond, with sufficient security, in the sum of one thousand dollars, conditioned for the faithful performance of his duties and the payment of all moneys collected by him under the provisions of this act. The said agent shall also be authorised to appoint one or more deputies, for whose acts he shall be responsible.

Sec. 10. That all violations of this act shall subject the parties to a confiscation of all animals taken. one-half of the value of which shall be retained by said agent for his own use, and the residue paid to the Chief-Justice of the county in which said confiscation shall be made; and they shall also be liable to such fine and imprisonment as the court may prescribe.

Sec. 11. That it shall not be lawful to run mustangs or wild unbranded cattle within ten miles of the Rio Grande.

Sec. 12. That all laws and parts of laws conflicting with the provisions of this act be, and the same are hereby repealed, and that this act take effect from and after its passage.

Approved, February 3, 1854.

## CHAPTER XXXI.

An Act to encourage the building of Steamboats, Steamships and other vessels in the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That a reward or bonus is hereby offered and shall be given by this State to each and every person or association of persons, whether residents of this State or otherwise, who shall build and complete or cause to be built and completed within this State, any ship or ships, vessel or vessels, whether propelled by steam or otherwise, and being sea-going vessels or ships, and being not less than fifty tons burthen, Customhouse measurement, three hundred and twenty acres of land, and a like amount of three hundred and twenty acres of land for every additional twenty-five tons burthen, Customhouse measurement, any such vessel or ship so built and completed as aforesaid shall measure.

Sec. 2. That there shall be offered and given, for every river, lake or bay steamboat so built and completed, as required in the first section of this act, and not measuring less than fifty tons burthen, Customhouse measurement, a reward or bonus, to the builder or builders of every such steamboat, of three hundred and twenty acres of land, and a like amount of land for every additional twenty-five tons burthen every such steamboat so built and completed as aforesaid shall measure.

Sec. 3. That any person or persons demanding the reward or bonus provided for by this act, shall file with the Commissioner of the General Landoffice a certificate, signed by the Collector of the port where said vessels, ships, steamboats or steamships are registered in accordance with the laws of the United States, and which certificate shall state the name or names of the builder or builders, the name and tonnage of the ship, or boat, or vessel, and that the ship, or boat, or vessel was wholly built and completed within this State, and built and completed after the passage of this act; and upon the filing of such certificate, it shall be the duty of the Commissioner of the General Landoffice to issue to the party or parties named in the certificate, land-scrip to the amount as provided for and offered in this act, and which scrip may be located and surveyed by any surveyor, upon any unappropriated public domain, and patented as in other cases.

Sec. 4. That this act take effect and be in force for five years from its passage.

Approved, February 3, 1854.

CHAPTER XXXII.

An Act to make a further Appropriation for the erection of a fire-proof Treasury Department and Comptroller's Office of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of six thousand four hundred and fifteen dollars be, and the same is hereby appropriated out of the fund yet remaining from the sale of lots in the city of Austin, to be expended by James B. Shaw and James H. Raymond, Commissioners heretofore appointed, for completing the aforesaid Treasury Building; and that this act take effect and be in force from and after its passage.

Approved, February 3, 1854.

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CHAPTER XXXIII.

An Act supplemental to "An Act to secure to the German Emigration Company and their Colonists the lands to which they are entitled, and to adjust the liabilities of said Company," approved January twenty-first, eighteen hundred and fifty.

Section 1. Be it enacted by the Legislature of the State of Texas, That the time for issuing land certificates to those entitled in the above recited act, be extended to the first day of March, A. D., eighteen hundred and fifty-five.

Sec. 2. That the Commissioner of said Colony, to be appointed after the passage of this act, be appointed and issue certificates for land in the same manner and under the same regulations as required by the act approved January twenty-first, eighteen hundred and fifty, to which this is a supplement. And that the certificates issued under the provisions of this act and the act to which this is a supplement, shall be located, surveyed and patented the same as other floating certificates in

the said colony of the German Emigration Company, otherwise called the colony of Fisher & Miller.

Sec. 3. That this act take effect and be in force from and after its passage.

Approved, February 3, 1854.

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#### CHAPTER XXXIV.

An Act authorizing and requiring the County Courts to regulate Roads, appoint Overseers, &c.

Section 1. Be it enacted by the Legislature of the State of Texas, That the County Courts of the several counties of this State shall have full power to order the laying out of public roads, when necessary, and to discontinue or alter any road whenever it shall be deemed expedient, as herein after prescribed, and it shall be their further duty to classify all roads running through their several counties; those of the first class shall be clear of all trees, at least thirty feet wide, stumps cut down to six inches of the surface; all causeways laid out at least fifteen feet wide, and those of the second class shall not be less than twenty feet wide, clear of all trees, all stumps cut to six inches of the surface, and all causeways laid out at least twelve feet wide, and all lanes shall be made at least thirty feet wide.

Sec. 2. That the County Courts of the several counties shall lay off their respective counties into road precincts, and shall, at their first meeting in each and every year, appoint an overseer for each precinct, and shall at the same time designate all the hands liable to work on public roads, under the different overseers in their county, and in case any hand or hands liable to work on roads shall not have been designated by said court, the overseer shall have power to summons them to work on the nearest public road to which they may live, as if they had been designated by the court; provided, thirty days residence be necessary to require the performance of said road service; but if from any cause the court should fail or neglect to perform the duties required in this section, at its first meeting in the



year, it shall be competent and legal for it to make such appointment and designation at a call meeting or at any regular term, and in case a vacancy should occur in any road precinct, by death, removal or other inability of any overseer of the road in the county, in shall be the duty of the Chief-Justice immediately upon information of the same, to appoint an overseer to fill such vacancy, who shall be notified of his appointment as in other cases; and whose duty it shall be to serve until the first regular meeting of the court in the next succeeding year.

Sec. 3. That all public roads and highways that have been laid out and established agreeably to law, except such as have been discontinued, are hereby declared to be public roads, and the said County Court shall in no instance grant an order on any application for any new road or to discontinue an original one, unless the persons making application for the same, or some one of them shall have given at least twenty days' notice by advertisement of their intended application put up at the Court house door and at two other public places in the vicinity of the route of the proposed new road, or the road proposed to be discontinued.

Sec. 4. That all applications for a new road, and all applications to discontinue an original one, shall be by petition to the County Court, signed by at least eight householders of the precinct or precincts in which such road is desired to be made or discontinued, specifying in such petition the beginning and termination of such road proposed to be opened or discontinued.

Sec. 5. That all roads hereafter ordered to be made shall be laid out by a jury of householders of the county, to be appointed by the County Court; said jury shall consist of five persons, a majority of whom may proceed to lay out and mark the road so ordered, to the greatest advantage of the public, and with as little prejudice to enclosures as may be, after having taken the following oath before some person authorized to administer oaths, to wit:

I ——— do solemnly swear, that I will lay out the road now directed to be laid out by the order to us directed from the County Court, according to law, without favor or affection, malice or hatred, to the best of my skill and knowledge, so help me God.

And the jury thus qualified, shall report their proceedings on the same to the next term of the County Court.

Sec. 6. That no public road shall be surveyed or laid out upon or across any farm, lot or enclosure, without first obtain-

ing the written consent of the owner or owners, his, her, or their agent or attorney, to the same.

Sec. 7. That if such written consent should be refused, it shall be the duty of the County Court to appoint five disinterested freehold citizens of the county, as Commissioners, a majority of whom may act to review the same, assess the damages incidental to the opening of the road of the first or second class, through any part of said farm, lot or enclosure, as proposed, taking into consideration the advantages and disadvantages accruing to such person from the opening of such road, and report their action in writing, and under oath, to the next regular term of the County Court.

Sec. 8. That if the owner or owners, his, her or their agent or attorney, of any unenclosed land, shall file in the County Court a written protest against opening a road viewed and marked out through the same, it shall be the duty of the County Court to appoint five disinterested freehold citizens of the county as Commissioners, a majority of whom may act to review said road, assess the damages, and report in manner and form as provided in the preceding section of this act.

Sec. 9. That if in the judgment of the County Court, from the report of the Commissioners aforesaid, the road should be deemed of sufficient importance they may order the survey or opening of the same; provided, that said County Court shall first order the payment of the damages assessed by said Commissioners, out of the County Treasury.

Sec. 10. That if no objection be filed upon the report of the jury of view, the court shall proceed to establish and classify such road, appoint an overseer, apportion hands and order the opening out of such road, as provided in the first section of this act, and the overseer so appointed shall report his action upon the same at the first regular term of the County Court in the next succeeding year, and he shall be liable to the fines imposed upon overseers of roads, for the non-performance of duty by the provisions of this act.

Sec. 11. That it shall be the duty of the Clerks of the County Courts to make out copies of all orders of appointment of juries of view or review, and all overseers of roads in duplicate; and within ten days after such orders of appointment shall have been made, he shall deliver such copies to the Sheriffs of their respective counties, endorsing on the back of the same the date of the issuance of the order, and all orders of appointments of overseers, shall embrace the designation of hands liable to work under such overseer, embracing the boundaries

of the precincts as laid off by the court, and the Sheriff shall, within twenty days after the reception of the same deliver to, or leave at the common residence of the overseer, a copy of the same, and make his return to the Clerk, endorsed on the duplicate the date of service, and on the Clerks or Sheriff failing to perform the duties herein required, each shall forfeit and pay for every such failure, the sum of ten dollars, which shall be recovered by judgment on motion of the District Attorney, and the District Court of the county in which the defaulter may reside, said defaulter having three days' notice of said motion.

Sec. 12. That all free white male persons, between eighteen and forty-five years of age, and all male slaves and other persons of color, over sixteen and under fifty years of age, shall be liable, and it is hereby made their duty to work on, repair and clear out the public roads of this State, under such provisions and regulations, as are hereinafter made; provided, that no licensed minister of the gospel, instructor of public or private schools, and all students of common schools or public institutions, keepers of grist mills that grind for toll, public ferrymen, County Commissioners nor Chief-Justices shall be liable to work on public roads.

Sec. 13. That the overseer of the road shall have power to call out all persons liable to work on public roads at any time when it may appear necessary to work or repair the roads, or any part of them in their precinct; provided, that no one person shall be compelled to work on more roads than one, nor more than ten days in each year; and further provided, that every overseer of a road shall work through his precinct at least twice in every year.

Sec. 14. That it shall be the duty of the overseer of any road, to give three days' previous notice, by summons in person or in writing left at their respective places of abode, to all free male persons, as well as to the owners, overseers or employers of slaves, liable to work on the road in his precinct, to meet at such time and place for that purpose as he shall designate, and bring with them such tools to work with as he shall direct; provided also, that the overseer shall have power to appoint some one to warn in the hands to work on the road, and such person shall be exempt from working on the road as many days as he was engaged in warning the hands.

Sec. 15. That if any free person so summoned, shall fail to attend or send a substitute to work in his place, or when attending shall fail or refuse to perform his duties as required, such person shall forfeit and pay for each and every day he may

so fail to attend or refuse to work, the sum of one dollar, together with all costs of suit, to be recovered by suit in the same manner as in cases of debt, before any Justice of the Peace having jurisdiction thereof, in the name of the Chief-Justice of the county, and if a slave, the sum of one dollar shall in like manner be recovered from the owner, overseer or employer, for each and every day such slave shall fail to work as required; provided, all reasonable excuses shall be heard and allowed; and provided further, that a list of the defaulting road workers, furnished by the overseer, shall be a sufficient showing to authorize the Justice of the Peace to issue writs against the parties liable, upon the return or trial day of which, whether the defaulter was summoned verbally or by writing, to work on the road, and if by writing, the testimony of the person leaving the notice shall be necessary, upon which judgment shall be had, but in no event shall the overseer be liable for the costs, nor shall he be required to give bond in case he should wish to take an appeal to the District Court.

Sec. 16. That if any overseer of a road shall fail or neglect to prosecute any free person, or if a slave, his owner, overseer or employer who shall fail to attend or neglect or refuse to perform his duty when lawfully summoned to work on roads, said overseer shall forfeit and pay for every such neglect, or failure or refusal, the sum of five dollars, to be recovered before any Justice of the Peace having jurisdiction, in the same manner as in action of debt, upon the complaint of any person liable to work upon said road, and the funds accruing under this act to be used and applied to the road where such defaulter resides.

Sec. 17. That when to the overseer of the roads it may appear expedient to make causeways and build bridges, the timber most convenient may be used. The earth necessary to cover said causeways shall be taken from both sides so as to make a drain on each side of the causeways; and he shall erect bridges across all such water courses and other places as may appear to him necessary and expedient, and should there be a water course that requires a bridge dividing any two road districts, the overseer of each district shall meet at the same time and place with their hands, and the overseer chosen by the majority present shall superintend the building of such bridges until finished.

Sec. 18. That when it may be necessary to use a wagon to haul material for any bridge, causeway or other purpose in repairing

roads, the overseer of such road is authorized to exchange the labor of any hands bound to work on such road, for the use of a wagon or wagons, and teams to be employed as aforesaid, also to exchange labor for the making of index boards and mile posts.

Sec. 19. That it shall be the duty of all overseers of public roads to measure such parts of roads as fall within their respective precincts or districts, in continuation, and to set up posts at the end of each mile leading from the court house or some noted place or town, and to mark on said posts in large legible figures, the distance in miles to said court house or other noted place, and when a post so erected shall be removed by any means whatever, the overseer of the road shall cause the same to be replaced by another marked as the original one. It shall also be the duty of overseers of roads to affix at the forks of all public roads in their respective districts or precincts, index boards, pointing towards, with directions, to the most noted places to which they lead. And on failure to put up mile posts marked as aforesaid, or index boards, within six months after their appointment, the overseer of such road for such failure and neglect, shall be liable to indictment, and on conviction thereof before the District Court, shall be fined in the sum of five dollars, and the costs of prosecution.

Sec. 20. That if any person shall be guilty of defacing or pulling down any mile post or index board, such person being convicted thereof before any Justice of the Peace for said county, shall forfeit and pay ten dollars for every such offence, to be applied to the improvement of such road.

Sec. 21. That if any person or persons shall alter or change any public road, unless it be done by permission of the County Court, he, she or they shall, on conviction thereof, forfeit and pay the sum of five dollars, for each week the road is so turned out of its old course, and if any person or persons shall erect or cause to be erected across any public road, any bar or fence, or fall any tree or bush or impediment of any kind whatever, and shall not remove such impediment within twenty-four hours, he or they shall forfeit and pay the sum of three dollars for every day the impediment shall remain in such road, upon conviction thereof before any Justice of the Peace in the county having jurisdiction thereof; provided, the parties so offending shall have at least five days' notice by citation, as in other cases; provided further, that nothing herein contained shall subject the party removing said road to damages, where the same is done to straighten said road through enclosures or

where the removal shall not render the said road more inconvenient to the public.

Sec. 22. That if any person shall refuse to serve as overseer on any road, agreeable to the order of the court in the county in which he resides, he shall be liable to indictment, and on conviction before the District Court, shall be fined in a sum not less than ten nor more than forty dollars; provided, all reasonable excuses shall be heard by the court trying the same. And it shall be the duty of each Overseer of any public road to notify the Clerk of his County Court of his non-acceptance within ten days after his being notified of his appointment, and on failure to do so, it shall be considered an acceptance of his appointment; and it shall moreover be the duty of the Clerk to insert on the commission the duties required of Overseers, in respect to their non-acceptance. And if any Overseer shall notify the Clerk of his refusal to act, the Clerk shall forthwith report the same to the Chief-Justice, who is authorized and required to appoint a successor, to serve for the residue of the time, and such new Overseer, so appointed, shall be subject to the same penalties and forfeitures as the Overseers appointed by the County Court, and a copy of the order of appointment made by the County Court and certified by the Clerk of said court, shall be sufficient evidence of the appointment of Overseers in all cases of prosecutions under this act; provided, that no person shall be compelled to serve as an Overseer more than one, in every three succeeding years, and shall not be required to serve on juries during the time he serves as Overseer.

Sec. 23. That if any Overseer of a road shall fail, neglect or refuse to perform the duties as prescribed by this act, or if he should not keep the road, bridges and causeways within his precinct clear and in good order, or if he suffer them to remain uncleared or out of repair for twenty days at any one time, unless hindered by high water or other sufficient cause to be judged of by the court, such Overseer shall be liable to indictment, and on conviction thereof by the District Court, shall be fined not less than ten nor more than twenty-five dollars; said fines shall be paid into the County Treasury, as other fines and forfeitures for the use of the road precinct under the control of such defaulting Overseer.

Sec. 24. That all fines recovered under the provisions of this act, after deducting therefrom all legal costs, the balance shall be paid over to the Overseer of the road in the precinct where the penalty accrued, for which amount the Overseer shall give

his receipt, the money to be applied by him to the improvement and keeping in good repair of his road.

Sec. 25. That every free person liable to work on roads, and if a slave, his master, Overseer or employer, may, by calling on the Overseer, at any time before the day appointed to work on roads, and paying to said Overseer the amount of which he or they might be liable for failing or refusing to work on said road, taking said Overseer's receipt for the same, shall be exempt from working for every such day so paid for, and also exempt from any penalty for the same.

Sec. 26. That the Overseers of roads shall apply all moneys coming into their hands to the improvement of their roads, in an impartial manner, by hiring hands and applying the work equally throughout his precinct, and should said Overseer misapply or fail or refuse to apply the money coming into his hands in manner as provided for in this section of this act, he shall for such refusal or failure be liable for double the amount so misapplied, to be recovered on motion, as provided for in the sixteenth section of this act, and he shall be precluded from holding any office in any county in the State, until such moneys are fully accounted for; provided, that all reasonable excuses shall be heard and allowed.

Sec. 27. That it shall be the duty of all Overseers of roads to report in writing to the County Court, at its first regular session in each year, giving the number of hands and the names of the free white males in his precinct liable to work on roads; the number of days he has worked on his road; the condition the road is in; the amount of fines by him collected, and all the funds received by him for his road. And any Overseer failing or refusing to make such report, shall forfeit and pay five dollars for such failure or refusal, to be recovered on motion, as provided for in the sixteenth section of this act, to be paid into the County Treasury for the use of the road where such penalty accrued.

Sec. 28. That the Clerks of the several County Courts of this State shall put up in their respective court houses on the first day of each District Court, a list of the names and precincts of all the Overseers of the roads in the county, and on neglect, shall forfeit and pay for each failure ten dollars, to be recovered on motion made by the District Attorney in the District Court, and paid into the County Treasury.

Sec. 29. That it shall be the duty of the Judges of the District Courts of the several Judicial Districts in the State, to give this act in charge to the Grand Jury at the opening of every court held by them.

Sec. 30. That the following acts, to wit: An Act to amend an act organizing Justice's Courts, and defining the powers and jurisdiction of the same, approved January 19th, 1841; an act authorizing and requiring the County Courts to regulate roads, appoint Overseers, &c., approved March 15th, 1848, and an act to amend the 3d, 6th, 7th and 9th sections of an act authorizing and requiring the County Courts to regulate roads, appoint Overseers, &c., approved January 19th, 1850, are hereby repealed.

Approved, February 4, 1854.

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## CHAPTER XXXV.

### An Act to create the county of Karnes.

Section 1. Be it enacted by the Legislature of the State of Texas, That all that portion of territory comprised within the following limits, shall be erected into a new county, to be called **Karnes**, viz: beginning at a point five thousand varas north 51° east, from the most southerly corner of De Witt county; thence north 39° west, to the intersection with the northwesterly boundary line of De Witt county; thence with said line of De Witt county to the district line between Goliad and Gonzales; thence with said district line north 41° west, to the most northerly corner of Goliad Land District; thence in a straight line south 51° west sixty-five thousand five hundred varas; thence south 39° east, in a direct line to a point lying south 51° west from the beginning; thence north 51° east to the beginning.

Sec. 2. That Benjamin Moore, of said county of Karnes, shall be, and is hereby authorized to organize the same, by ordering and causing an election to be held on a day by him to be named, for the necessary county officers. Notice of the time and places of holding said election shall be given, by posting up advertisements at three of the most public places in the county; and the election shall in all respects be conducted as other elections for county officers.

Sec. 3. Said Benjamin Moore is also further authorized and



empowered to administer the necessary oath of office to the persons who may be elected at said election, and the officers thus elected and qualified shall proceed at once to discharge the duties of their respective offices. In case of failure of the said Benjamin Moore to organize said county as above provided for, it shall be the duty of the Chief-Justice of Bexar county to perform the duty herein required in relation to its organization.

Sec. 4. The town of Helena shall be, and is hereby declared to be the County Seat of said county, at which place all the County and District Courts of said county shall be held.

Sec. 5. That all that part of Karnes county which by this act is taken from Bexar county, shall be and remain subject to the railroad tax which was levied by a vote of the people of Bexar county, in virtue of the charter of the San Antonio and Mexican Gulf Railroad Company, the same in all respects as if said portion of territory had remained a part of Bexar county.

Sec. 6. That the act entitled "an act to prevent the locating and patenting of certain lands in Bexar county," approved February 16th, 1852, shall continue and be in full force over all that part of Karnes county which may be taken from Bexar county.

Sec. 7. This act shall take effect from and after its passage.

Approved, February 4, 1854.

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## CHAPTER XXXVI.

### An Act to create the County of Coryell.

Section 1. Be it enacted by the Legislature of the State of Texas, That all of the territory comprised within the following limits, to-wit: beginning at the north-west corner of Bell county proper, in the south west line of McLennan county; thence north 30° west with McLennan county and Bosque county lines 30 miles to a corner of the latter; thence south 60° west 32 miles; thence south 30° east 30 miles, to the upper line of Bell county proper; thence north 60° east 32 miles with the north-west line of Bell county proper, to the beginning, be, and the same is hereby constituted a new county by the name of the county of Coryell.

Sec. 2. The Chief-Justice of Bell county shall, within three months after the passage of this act, order an election for county officers, which election shall be advertised at three public places in the county of Coryell, stating the time and place, which shall be at some suitable point near the center of said county, and shall be conducted in all other respects in accordance with the general laws governing elections, and in accordance with an "act to provide for organizing new counties," approved March 20th, 1848; and the said Chief-Justice of Bell county shall qualify the said officers of the said county of Coryell, when elected.

Sec. 3. It shall be the duty of the County Court of said new county, so soon as they are duly qualified, to proceed to locate the County Seat of said county, by selecting at least three eligible sites, not exceeding five miles from the centre of said county, having respect for any donation of land that may be made for that purpose, as well as convenience to wood and water; and when so selected, the Chief-Justice shall order an election, which shall be conducted according to the general laws governing elections for county officers. And if at the first election neither of the sites so selected shall receive a majority of all the votes cast, the place receiving the smallest number of votes shall be thrown out, and the Chief-Justice shall order another election as before, and so continue to do, throwing out the site receiving the smallest number of votes, until some one of the sites selected shall receive a majority of all the votes cast, which shall be declared the county seat of said county, and shall be called Gatesville.

Sec. 4. The County Court of said county shall have power to purchase, if necessary, land, not to exceed 320 acres, for the use of the county, and shall lay the same off into suitable lots for a town; and after selecting and setting apart such suitable lots as may be necessary for a Courthouse, Jail, Clerks' Offices, Churches, School Houses and Burying Grounds, they shall proceed to sell the remainder, or such portion thereof as they may deem necessary, at public auction, at such time and upon such terms as will most conduce to the interest of said county, and shall apply the proceeds thereof to the erection of necessary public buildings for the use of said county.

Sec. 5. The Chief-Justice of Bell county shall be entitled to three dollars per day for every day that he is necessarily employed or detained in holding said elections and organizing said county of Coryell.

Sec. 6. All that territory situated north-westwardly of the

county hereby created, and which was heretofore included within the limits of Bell county, shall be attached to and form a part of the territorial limits of the said new county, and for all county and general purposes, shall form a part of the same, after the organization of said county and the location of the seat of justice thereof; and the county hereby created shall be attached to and form a part of the Third Judicial District.

Sec. 7. This act shall take effect and be in force from and after its passage.

Approved, February 4, 1854.

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## CHAPTER XXXVII.

An act making an Appropriation for the Rescue of Captives now in the hands, or who may hereafter fall into the hands of the Indians.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of five thousand dollars be, and the same is hereby appropriated for the purpose of rescuing captive citizens of this State now in the possession of the Indians, or who may hereafter fall into the hands of the Indians.

Sec. 2. That the Governor of the State is hereby authorized to draw upon said appropriation as necessity may require, and that his warrant on the Treasurer shall be sufficient authority for the payment of such sum or sums as may be requisite to carry out the provisions of this act, and that a sufficient amount of said appropriation may be drawn from the Treasury of this State, under the provisions of this act, to restore Mrs. Jane Wilson, now in the town of Santa Fé, New Mexico, to her home and friends.

Sec. 3. That this act take effect from and after its passage.

Approved, February 4, 1854.

## CHAPTER XXXVIII.

## An Act to create the County of Bosque.

Section 1. Be it enacted by the Legislature of the State of Texas, That all that territory comprised within the following limits, to-wit: beginning on the Brazos river at the upper corner of a league of land in the name of William B. Wilson; thence south sixty degrees west  $27\frac{1}{2}$  miles; thence south thirty degrees east, to the upper line of Coryell county, which upper line is to be run parallel to and thirty miles above the north boundary of Bell county proper; thence with said upper or north boundary line of Coryell county north sixty degrees east to its north-east corner, which is to be established in the direction of the present west line of McLennan county; thence south thirty degrees east to the north-west corner of McLennan county, which is to be established in a direction south sixty degrees west from the north line of McLennan county as now established east of the Brazos river; thence north sixty degrees east to the Brazos river; thence up the Brazos with its meanders to the beginning, containing nine hundred square miles, shall be constituted into a new county and called Bosque.

Sec. 2. That William Gray, T. E. Everett, William McCary, John Laker, Lowry S. Crutchfield and Jasper Mabry be, and they are hereby appointed Commissioners to locate the County Site of said county, and may purchase or receive by donation not more than three hundred and twenty acres of land for the use of said county, and shall proceed to lay off one-half of said land into suitable lots, and sell the same or any part thereof, at such time and on such terms as they may think best for the interest of said county, by offering the same at public auction, after giving due notice of the time and place of such sale, and shall apply the proceeds of such sales to the erection of suitable county buildings for the use of said county.

Sec. 3. The said Commissioners, or a majority of them, shall locate said County Site as near the centre of said county as practicable, if the land can be obtained so as to secure the permanency of the same, and they shall continue to perform the duties of County Commissioners until the next regular election, when their functions shall cease.

Sec. 4. That all that portion of territory lying north and west of this county, and which now belongs to McLennan county, shall belong to and form a territorial part of Bosque county, and that said Bosque county shall be organized in

accordance with the "act to provide for the organization of new counties," and that this act take effect and be in force from and after its passage.

Approved, February 4, 1854.

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CHAPTER XXXIX.

An Act to Provide Books for the use of the Supreme Court.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Secretary of State shall transfer to the control of the Judges of the Supreme Court, all law books and reports of the decisions of the Courts of the several States now in his office, and such as may hereafter be sent to his Department by way of an interchange.

Sec. 2. That the sum of fifteen thousand dollars be, and the same is hereby appropriated out of any money in the Treasury not otherwise appropriated, and placed under control and management of the Judges of the Supreme Court, to be expended in the purchase of books for the use of the Supreme Court. The books purchased to be kept at Austin, at Tyler and at Galveston, as the Judges may direct and deem necessary to the investigation of causes pending in the several branches of the Supreme Court.

Sec. 3. That the Treasurer is hereby authorised to pay over to the order of the Judges of the Supreme Court, countersigned by the Comptroller, the sum of fifteen thousand dollars, specified in this act, as they may draw for the same.

Approved, February 4, 1854.

## CHAPTER XL.

An Act to amend an act entitled "An Act to establish the time of holding the Courts in the First Judicial District," approved February 8, 1850.

Section 1. Be it enacted by the Legislature of the State of Texas, That the first section of said act shall be so amended as to read as follows: "That from and after the passage of this act, the Courts in the First Judicial District shall commence in the county of Matagorda, on the second Monday in March and the first Monday in October, and may continue in session two weeks.

In the county of Wharton on the second Monday after the second Monday in March, and on the second Monday after the first Monday in October, and may continue in session one week.

In the county of Colorado, on the third Monday after the second Monday in March, and on the third Monday after the first Monday in October, and may continue in session two weeks.

In the county of Austin, on the fifth Monday after the second Monday in March and on the fifth Monday after the first Monday in October, and may continue in session two weeks.

In the county of Fort Bend, on the seventh Monday after the second Monday in March and on the seventh Monday after the first Monday in October, and may continue in session two weeks.

In the county of Brazoria, on the ninth Monday after the second Monday in March and on the ninth Monday after the first Monday in October, and may continue in session three weeks.

In the county of Galveston, on the twelfth Monday after the second Monday in March, and on the twelfth Monday after the first Monday in October, and may continue in session four weeks."

Sec. 2. That the second section of said act be re-enacted so as to read as follows: All writs and process that have been or may hereafter be issued from any of the District Courts of the First Judicial District shall be considered as returnable, and shall be returned to the terms as established by this act, and they shall have the same force and effect as if they had originally been issued so returnable.

Sec. 3. That this act be in force and take effect from and

after its passage, and that all laws and parts of laws contrary to and conflicting with the provisions of this act be, and the same are hereby repealed.

Approved, February 6, 1854.

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CHAPTER XLI.

An Act relating to the Indians of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That jurisdiction over twelve leagues of land of the vacant domain of the State of Texas, or so much of twelve leagues as the government of the United States may select, be, and the same are hereby set apart and appropriated for the use and benefit of the several tribes of Indians residing within the limits of Texas.

Sec. 2. That the government of the United States is hereby authorized to cause to be selected and surveyed of the vacant domain of the State, or to purchase of private individuals and cause to be distinctly marked, three separate districts, or less, each district to be in a form as nearly square as may be, the said three districts not to include exceeding twelve leagues of land.

Sec. 3. That whenever the proper agent of the government of the United States shall notify the district surveyor of any land district within the limits of which the land so selected or purchased, may be situated, it shall be the duty of said district surveyor to cause such land so selected or purchased, to be plainly delineated upon the county map of the county in which the same is situated, and any location or entry upon any vacant land after the same shall have been so designated for Indian purposes, shall be held null and void; provided, no land selected or purchased for Indian purposes under the provisions of this act, shall be situated more than twenty miles south or east of the most northern line of military posts, established by the government of the United States, and extending from Red River to the Pecos river.

Sec. 4. That the jurisdiction over said twelve leagues of land or any portion thereof, which may be selected for Indian

purposes, within the meaning of this act, be, and the same is hereby ceded to the government of the United States so far as to enable it to extend any act of Congress now existing or hereafter to be passed regulating trade and intercourse with the Indian tribes; provided, this cession of jurisdiction shall not be construed so as to deprive the State of Texas of the right of jurisdiction over any person other than an Indian for any offence committed upon the person or property of any one within the limits of this State; and further provided, that all process issuing from any of the courts of this State may be served in the like manner and have the same force and effect as though executed in any other portion of the State.

Sec. 5. That the government of the United States, as soon as the above twelve leagues of land, or so much thereof as may be deemed necessary, shall have been selected or purchased and distinctly marked, shall be and it is hereby authorized to establish upon said land whatever agencies and military posts may be deemed necessary, and to settle upon said land such Indian tribes or bands of Indians as belong within the limits of Texas, and shall exercise entire control and jurisdiction over said Indians within said limits, so long as said government shall judge such control and jurisdiction necessary to the well being of said Indians; provided, that whenever the land or any district thereof, selected or purchased as herein provided, shall cease to be used for Indian purposes, the jurisdiction herein ceded shall cease, and such portion of said land as shall be taken from the public domain of this State, shall revert, together with all and singular the improvements made thereon, to the State, to be disposed of in such manner as the Legislature may thereafter see proper; provided, that should the line of the contemplated railroad to the Pacific run through any portion of said territory selected under the provisions of this act, the right of way to three hundred feet in width be, and the same is hereby reserved.

Sec. 6. That this act take effect and be in force from and after its passage.

Approved, February 6, 1854.



CHAPTER XLII.

An Act to repeal the first section of "an act concerning Juries," approved February 16, 1852.

Section 1. Be it enacted by the Legislature of the State of Texas, That the first section of "an act concerning Juries," approved February 16, 1852, be, and the same is hereby repealed; and that this act take effect and be in force from and after its passage.

Approved, February 6, 1854.

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CHAPTER XLIII.

An Act to amend the ninth section of "an act to Regulate Proceedings in the District Courts, passed on the 13th day of May, 1846.

Section 1. Be it enacted by the Legislature of the State of Texas, That the ninth section of the above entitled act be, and the same is hereby so amended as to read as follows:

Sec. 9. Be it enacted, &c., that it shall be the duty of the Clerk, when a petition is filed and the regulations hereinafter provided, are complied with, to issue a writ or citation, directed to the Sheriff or other proper officer of the county or counties in which the petition alleges that the defendants are, requiring him to summon the defendants to appear at the proper term of the court, then and there to answer the plaintiff's petition, a certified copy of which shall accompany each writ or citation; and if there be more than one defendant, the Clerk shall issue a writ or citation to each, accompanied with a copy of the petition: provided, that when suit is instituted in any court of this State against any corporation or body politic, service of said writ or citation, with a copy of the petition, on the Chief Justice, Mayor, President, Secretary or Treasurer thereof, shall be a sufficient service on said corporation or body politic.

Approved, February 6, 1854.

## CHAPTER XLIV.

An Act to Legalize the acts of Alexander Beaton, Notary Public of Navarro county.

Section 1. Be it enacted by the Legislature of the State of Texas, That the notarial acts of Alexander Beaton be declared as legal as though he had been a naturalized citizen previous to his appointment, and that this act take effect from and after its passage.

Approved, February 6, 1854.

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CHAPTER XLV.

An Act to create the Fourteenth Judicial District of the State of Texas and to fix the time of holding Courts therein.

Section 1. Be it enacted by the Legislature of the State of Texas, That the counties of Nueces, San Patricio, Refugio, Goliad and Karnes, shall hereafter constitute a Judicial District, to be called the Fourteenth Judicial District of the State of Texas.

Sec. 2. That the District Court shall commence its sessions in the county of Nueces on the third Mondays of March and September of each and every year, and shall continue in session not longer than two weeks.

In the county of San Patricio, on the second Mondays after the third Mondays in March and September, and may continue in session two weeks.

In the county of Refugio, on the fourth Mondays after the third Mondays in March and September, and may continue in session two weeks.

In the county of Karnes, on the sixth Mondays after the third Mondays in March and September, and may continue in session one week.

In the county of Goliad, on the seventh Mondays after the third Mondays of March and September, and may continue in session until all the business is disposed of.

Sec. 3. That it shall be the duty of the Governor, immediately after the passage of this act, to issue his proclamation ordering an election to be holden in the several counties composing the Fourteenth Judicial District, on the third Monday of March, eighteen hundred fifty-four, for the purpose of electing a District Judge and a District Attorney for said Fourteenth Judicial District. And on the thirtieth day after the election, as provided for in this act, the returns shall be opened and counted, as now provided for in an act supplementary to an act regulating elections, passed March sixteenth, eighteen hundred and forty-eight, approved February eleventh, eighteen hundred and fifty, and the person or persons so elected shall qualify and enter immediately upon the duties of his or their said offices.

Sec. 4. That it may and shall be lawful for the Judge of said District Court, when elected under the provisions of this act, and duly qualified, to hold a special term of the courts in and for the counties of Nueces, San Patricio, Refugio and Karnes, for the trial of all causes, civil and criminal, upon giving twenty days' notice of the time of holding said special terms; which said notice shall be posted up at the courthouse door of each county, and published in some newspaper published in each county, if there be one; if there be none, then in the nearest newspaper published in one of the adjoining counties. And that all writs and other process, of every kind, that have been and may hereafter be issued from the District Courts of any of the counties named in this act, shall be returned to the terms of said courts as established by this act; and all such process and writs shall have the same force and effect as if they had been originally so returnable. Provided, that this act shall not change or alter the time of holding the District Court in Goliad county, until the spring term of said court shall be holden for the year eighteen hundred and fifty-four, as heretofore provided for by law.

Sec. 5. That all appeals from said District shall be returnable to the Supreme Court to be holden at Galveston, and that this act shall take effect and be in force from and after its passage.

Approved, February 7, 1854.

## CHAPTER XLVI.

An Act Supplemental to "An Act to Create the County of Trinity," approved February 11, 1850.

Section 1. Be it enacted by the Legislature of the State of Texas, That the town of Sumpter be, and the same is hereby declared and constituted the County Site of said Trinity county.

Sec. 2. That the County Court of said Trinity county is hereby authorized to cause to be surveyed, (if the same is not already done,) six hundred and forty acres of the public lands of this State, including the said town of Sumpter, and not conflicting with any grant or valid location hertofore made, and return the fields notes of said survey to the General Landoffice of this State.

Sec. 3. That the State of Texas hereby relinquishes to said Trinity county all her right to said six hundred and forty acres of land so surveyed, and the Commissioner of the General Landoffice is hereby required to issue a patent to said Trinity county for said six hundred and forty acres so relinquished, upon the payment of the usual fees of office.

Sec. 4. That the County Court of said county, or a quorum thereof, have full power and authority to sell at public auction to the highest bidder, the lots of said town upon said survey, on such terms as they may deem most for the interest of said county, and make titles to the purchasers thereof, and apply the proceeds of said sales to the building of a Courthouse, Jail, &c., for said county.

Sec. 5. That all laws and parts of laws conflicting with the provisions of this act be, and the same are hereby repealed; and that this act be in force from and after its passage.

Approved, February 8, 1854.

CHAPTER XLVII.

An Act to authorize the Chief-Justice of Cass, Hopkins, Titus and Upshur Counties to order an election in their respective counties for purposes therein expressed.

Whereas, many of the citizens of the above named counties have petitioned the Legislature of the State for the formation of a new county out of the surplus territory of said counties. Therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That it shall be the duty of the Chief-Justice of Cass, Hopkins, Titus and Upshur counties to order an election in their respective counties for the purpose of testing whether a majority of the citizens of said counties are in favor of forming a new county from their surplus territory.

Sec. 2. That said elections shall be held on the first Monday in August next, and the voters of said counties shall endorse upon their tickets "for" or "against the new county," as the case may be, and the returns of said election shall be made by the Chief-Justices of the several counties to the Chief-Justice of Titus county; and it shall be the duty of the Chief-Justice of Titus county to preserve carefully, and certify the result to the next Legislature of the State of Texas.

Sec. 3. That this act take effect and be in force from and after its passage.

Passed, February 1, 1854.

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CHAPTER XLVIII.

An Act Confirming Titles to the Colonists of Peters' Colony.

Section 1. Be it enacted by the Legislature of the State of Texas, That all land certificates issued by Thomas Wm. Ward, Commissioner appointed to issue certificates to Colonists in Peters' Colony, and all land certificates issued to Colonists by the County Courts as required by the provisions of an act entitled "an act relating to lands in Peters' Colony," approved

February 10, 1852, are hereby relinquished to the Colonists, their heirs and assigns.

Sec. 2. That all surveys and field notes duly made and returned, and all such as shall hereafter be duly made and returned by virtue of such certificates as are mentioned in the first section of this act, together with such certificates, shall have the effect of vesting complete title to the land in the Colonists legally holding the same, their heirs and assigns; and all locations which have been or may hereafter be made by any Colonists, their heirs or assigns, by the number of the section or parts of section, township and range, base and meridian, as provided for in the fourth section of said act of February 10, 1852, shall also have the effect of vesting complete title to the lands in the Colonists, so soon as they shall return to the General Landoffice such locations or designations, together with their said certificates.

Sec. 3. That the Commissioner of the General Landoffice shall issue patents on said lands as in other cases.

Sec. 4. That this act shall take effect from and after its passage.  
Approved, February 8, 1854.

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## CHAPTER XLIX.

An Act supplemental to "An Act concerning Crimes and Punishments," approved March twentieth, A. D., eighteen hundred and forty-eight.

### OFFENCES AGAINST THE PERSON.

Section 1. Be it enacted by the Legislature of the State of Texas, If any person, with the intent to procure the miscarriage of any woman being with child, unlawfully and maliciously shall administer to her or cause to be taken by her any poison or other noxious thing, or shall use any instrument or any means whatever, with like intent, every such offender, and every person counselling or aiding or abetting such offender, shall be punished by confinement to hard labor in the Penitentiary not exceeding ten years.

Sec. 2. Upon all indictments for murder or manslaughter, if it shall be found by the verdict of the jury that the party indicted killed the person for whose death he is indicted in the lawful defence of himself, his family or servants or master, or happened to kill such person in attempting to arrest by lawful means the person killed, for treason or other felony or misdemeanor, or in the lawful discharge of any duty required by law, or that he not being engaged at the time in the commission of any offence punishable by fine or imprisonment, or by confinement to hard labor in the Penitentiary, killed such person by misfortune or accident, then and in that case the party indicted shall be fully acquitted and discharged.

Sec. 3. If any person shall, either verbally or by any written or printed communication, maliciously threaten to accuse another of any crime or offence, or shall by any written or printed communication, maliciously threaten any injury to the person or property of another, with intent thereby to extort money or any pecuniary advantage whatever, or with the intent to compel the person so threatened to do any act against his will, he shall be punished by confinement to hard labor in the Penitentiary not less than one year nor more than five years, or by fine not exceeding one thousand dollars, and by imprisonment in the county jail not exceeding one year.

Sec. 4. Every person who shall unlawfully sell any free person for a slave, or hold any free person as a slave against his will, knowing the person so sold or held to be free, shall be punished by confinement to hard labor in the Penitentiary not less than one year nor more than ten years, or by fine not exceeding one thousand dollars, and imprisonment in the county jail not exceeding one year.

Sec. 5. If any person shall mingle any poison with any drink, food or medicine, with intent to kill or injure any other person, or shall wilfully poison any spring, well, cistern or reservoir of water with such intent, he shall be punished by confinement to hard labor in the Penitentiary not less than one year nor more than ten years.

Sec. 6. Murder or manslaughter committed upon the body of a slave shall be punished in the same manner as murder or manslaughter committed upon the body of a free white person.

#### OF OFFENCES AGAINST PRIVATE PROPERTY.

Sec. 7. If any person who shall have committed an offence in any foreign country, State or Territory, which, if committed in this State would be robbery, larceny, or receiving of stolen

property, knowing the same to have been stolen, shall bring the property within this State, he shall be deemed guilty of robbery, larceny, or receiving of stolen property knowing the same to have been stolen, as the case may be, in this State, and shall be punished accordingly; and the receiver of any such property in this State, knowing the same to have been so robbed or stolen, shall be punished in the same manner as in other cases of receiving stolen property.

Sec. 8. Every person who shall wilfully burn any building or any goods, wares, merchandise or other chattels, which shall be at the time insured against loss or damage by fire, with intent to injure the insurer, whether such person be the owner of the property burnt or not, shall be punished by confinement to hard labor in the Penitentiary not less than one year nor more than seven years.

Sec. 9. The officer who shall arrest any person charged as principal or accessory in any robbery or larceny, shall secure the property alleged to be stolen, and shall be answerable for the same, and he shall annex a schedule thereof to his return, and upon conviction of the offender, the stolen property shall be restored to the owner.

Sec. 10. If any public officer or agent, being a receiver of public money under any law of this State, or clerk or other person employed in the office of any officer of this State who shall be a receiver of public money, shall embezzle or fraudulently misapply or convert the same to his own use, or take or secrete with intent to embezzle or convert to his own use, any money of the State which shall have come to his possession or shall be under his care by virtue of such office, agency or employment, or shall pay or deliver the same to any person, knowing that such person is not entitled to receive the same, he shall be punished by confinement to hard labor in the Penitentiary not less than two years nor more than ten years.

Sec. 11. That if any officer, agent or clerk of any incorporated company or institution, or of any city, town or county, or if any clerk or agent of any private person or copartnership, except apprentices and persons under the age of sixteen years, shall embezzle or fraudulently misapply or convert to his own use, or shall take or secrete with intent to embezzle or convert to his own use, without consent of his principal or employer, any money or property of another which shall have come to his possession or shall be under his care by virtue of such office, agency or employment, he shall be deemed, by so doing, to



have committed the crime of larceny, and shall be punished accordingly.

Sec. 12. If any person shall receive or conceal any money or property embezzled as described in the two preceding sections, knowing the same to have been so embezzled, he shall be punished in the same manner as the person embezzling the same.

Sec. 13. If any carrier or other person to whom any money, goods or other property, which may be the subject of larceny, shall have been delivered to be carried for hire, or if any other person who shall be entrusted with such property, shall embezzle or fraudulently convert to his own use, or shall secrete with intent to embezzle or fraudulently convert to his own use any such money, goods or property either in the mass, as the same were delivered, or otherwise, and before the delivery of such money, goods or property at the place at which or to the person to whom they were to be delivered, he shall be deemed by so doing to have committed the crime of larceny, and shall be punished according to the value of the said money, goods or other property.

Sec. 14. Every person who shall falsely personate or represent another, and in such assumed character shall receive any money or other property whatever, intended to be delivered to the party so personated, with intent to convert the same to his own use, shall be deemed by so doing to have committed the crime of larceny, and shall be punished accordingly.

Sec. 15. If any person shall designedly, by any false pretence or by any privy or false token, and with intent to defraud, obtain from any person any money, or any goods, wares, merchandise or other property, or shall obtain with like intent the signature of any person to any written instrument, the false making whereof would be punishable as forgery, he shall be punished by confinement to hard labor in the Penitentiary not more than five years, or by fine not exceeding one thousand dollars, and by imprisonment in the county jail not exceeding one year.

Sec. 16. If any person shall wilfully cast away, burn, sink or otherwise destroy any ship or vessel within the body of any county, with the intent to injure or defraud any owner of such ship or vessel, or the owner of any property laden on board of the same, or any insurer of such ship, or vessel or property, or any part thereof, he shall be punished by confinement to hard labor in the Penitentiary not less than one year nor more than seven years.

Sec. 17. Every person who shall mark or brand any horse, gelding, mare or colt, mule, ass, neat cattle, sheep, hog or goat, not being his own property and without the consent of the owner, and with intent to defraud, shall be punished by fine, not exceeding fifty dollars, or by imprisonment in the county jail not exceeding six months.

Sec. 18. Every person who shall alter or deface the mark or brand of any horse, gelding, mare or colt, mule, ass, neat cattle, sheep, hog or goat, not being his own property, without the consent of the owner and with intent to defraud, shall be punished by a fine not exceeding one hundred dollars, and imprisonment in the county jail not exceeding one year.

Sec. 19. Every person who shall cut, fell, alter or remove, or cause to be cut, felled, altered or removed, any boundary tree or other allowed land-mark, knowing the same to be such, shall be punished by fine not exceeding one hundred dollars and imprisonment in the county jail not exceeding one year.

Sec. 20. If any person hath given or shall hereafter give any mortgage, deed of trust or other lien in writing upon any personal or moveable property, and shall remove the same or any part thereof from this State, or shall sell or otherwise dispose thereof, while the same remains in this State, with intent to defraud, he shall be punished by confinement to hard labor in the Penitentiary not less than one year nor more than five years.

Sec. 21. If any person shall fraudulently pass or transfor, or offer to pass or transfer any paper purporting to be bank paper, and to be issued by any bank which has never existed, or which having existed shall have since broken, with intent that any person shall be defrauded thereby, he shall be punished by confinement to hard labor in the Penitentiary not less than one year nor more than five years..

Sec. 22. That if any person shall intentionally injure, break, cut, pull or tear down, or in any way misplace any telegraph wire, post, machinery or other necessary appurtenances to any telegraph line in this State, or in any way wilfully obstruct or interfere with the transmission of messages along any such telegraph line, he shall be punished by confinement to hard labor in the Penitentiary not less than two, nor more than ten years, or by imprisonment in the common jail not more than one year, and by fine not exceeding two thousand dollars.

#### OF FORGERY AND COUNTERFEITING.

Sec. 23. In any case where an intent to defraud is required

to constitute the offence of forgery, or any other offence that may be prosecuted, it shall be sufficient to allege in the indictment an intent to defraud, without naming therein the particular person or body corporate intended to be defrauded; and on the trial of such indictment it shall be sufficient, and shall not be deemed a variance, if there appear to be an intent to defraud the United States or any State, county, city, town or any body corporate, or any public officer in his official capacity, or any copartnership or member thereof, or any particular person.

#### OF OFFENCES AGAINST PUBLIC JUSTICE.

Sec. 24. Whenever it shall appear to any court that any witness or party who has been legally sworn and examined, or has made an affidavit in any proceeding in a court of justice, has testified in such a manner as to induce a reasonable presumption that he has been guilty of perjury therein, the court may immediately commit such witness or party by an order or process for that purpose, unless such witness or party enter into recognizance, with sureties, for his appearance to answer to an indictment for perjury, and thereupon the witness to establish such perjury, may, if present, be bound over to the proper Court, and notice of the proceedings shall forthwith be given to the District Attorney.

Sec. 25. If in any proceedings in a court of justice in which perjury or forgery shall be reasonably presumed, any papers, books or documents shall have been produced, which shall be deemed necessary to be used in any prosecution for such perjury or forgery, the court may by order detain the same from the person producing them, so long as may be necessary in order to their being used in such prosecutions.

Sec. 26. Every person who shall corruptly give, offer or promise to any Executive, Legislative or Judicial officer, after his election or appointment, and either before or after he shall have been qualified or shall have taken his seat, any gift or gratuity whatever, with intent to influence his act, vote, opinion, decision or judgment on any matter, question, cause or proceeding which may be then pending or may by law be brought before him in his official capacity, shall be punished by confinement to hard labor in the Penitentiary not exceeding five years, or by fine not exceeding three thousand dollars, and imprisonment in the county jail not exceeding one year.

Sec. 27. Every Executive, Legislative or Judicial officer, who shall corruptly accept any gift or gratuity, or any promise

to make any gift, or to do any act beneficial to said officer, under an agreement or with an understanding that his act, vote, opinion or judgment shall be done or given in any particular manner, or upon a particular side of any question, cause or proceeding which is or may be by law brought before him in his official capacity, or that in such capacity he shall make any particular nomination or appointment, shall be punished by confinement to hard labor in the Penitentiary not exceeding ten years, or by fine not exceeding five thousand dollars, and imprisonment in the county jail not exceeding two years.

Sec. 28. Every person who shall corrupt or attempt to corrupt any Auditor, Juror, Arbitrator, Umpire or Referee by giving, offering or promising any gift or gratuity whatever, with intent to bias the opinion or influence the decision of such Auditor, Juror, Arbitrator, Umpire or Referee, in relation to any cause or matter which may be pending in the Court before an inquest or for the decision of which such Arbitrator, Umpire or Referee shall have been chosen or appointed, shall be punished by confinement to hard labor in the Penitentiary not more than five years, or by fine not exceeding one thousand dollars, and imprisonment in the county jail not more than one year.

Sec. 29. If any person summoned as a Juror or chosen or appointed as an Arbitrator, Umpire or Referee, or if any Auditor shall take anything to give his verdict, award or report, or shall corruptly receive any gift or gratuity whatever from a party to any suit, cause or proceeding for the trial or decision of which such Juror shall have been summoned, or for the hearing or determination of which such Auditor, Arbitrator, Umpire or Referee shall have been chosen or appointed, he shall be punished by confinement to hard labor in the Penitentiary not more than five years, or by fine not exceeding one thousand dollars, and imprisonment in the county jail not more than one year.

Sec. 30. If any person having knowledge of the commission of any felony, shall take any money or gratuity or reward, or any engagement therefor upon an agreement or understanding, expressed or implied, to compound or conceal such offence, or not to prosecute therefor, or not to give evidence thereof, he shall be punished by confinement to hard labor in the Penitentiary not more than three years, or by fine not exceeding one thousand dollars, and imprisonment in the county jail not more than one year.

Sec. 31. If any Sheriff; Constable or other officer authorised

to serve legal process, shall receive from a defendant or any other person, any money or other valuable thing as a consideration, reward or inducement for omitting or delaying to arrest any defendant, or to carry him before a magistrate, or for delaying to take any person to prison, or for postponing the sale of any property under an execution, or for omitting or delaying to perform any duty pertaining to his office, he shall be punished by confinement to hard labor in the Penitentiary not more than three years, or by fine not exceeding one thousand dollars, and imprisonment in the county jail not more than one year.

### OFFENCES AGAINST PUBLIC PEACE.

Sec. 32. That if any two or more persons shall, within this State, conspire together, or engage with one another for the purpose of committing any murder, robbery, rape, arson, burglary or larceny in any foreign country or territory, or in any other State, such persons and each of them so offending shall be punished by confinement to hard labor in the Penitentiary not less than one, nor more than ten years.

Sec. 33. If any person shall, within this State, wilfully and feloniously discharge any gun, pistol, cannon or other fire arms, so as to kill and murder any other person in any foreign country or territory, or in any other State, he shall be punished with death, or confinement to hard labor in the Penitentiary for any term not less than three years, at the discretion of the jury.

Sec. 34. If any person shall, within this State, make an assault with intent to commit murder upon any other person in any foreign country or territory, or in any other State, he shall be punished by confinement to hard labor in the Penitentiary not less than one nor more than ten years.

Sec. 35. Trials for all offences described in the three preceding sections shall be had in the county where the offence is committed.

Sec. 36. If any person who has a former husband or wife living, shall marry another person, or shall continue to cohabit with such second husband or wife in this State, he or she shall, except in the cases mentioned in the following section, be deemed guilty of the crime of polygamy, and shall be punished by confinement to hard labor in the Penitentiary not less than one year nor more than five years.

Sec. 37. The provisions of the preceding section shall not extend to any person whose husband or wife shall have been

continually remaining beyond the sea, or shall have voluntarily withdrawn from the other and remained absent for the space of five years, the party marrying again not knowing the other to be living within that time, nor to any person who shall have been legally divorced from the bonds of matrimony.

Sec. 38. If any white person shall knowingly marry a negro, or the descendant of a negro, or being married to a negro or the descendant of a negro, shall continue to cohabit with such negro or descendant of a negro within this State, such person shall be punished by confinement to hard labor in the Penitentiary not less than one year nor more than five years.

Sec. 39. All persons being within the degrees of consanguinity or affinity in which marriages are prohibited or declared by law to be incestuous, who shall intermarry with or carnally know each other, shall, on conviction thereof, be punished by confinement to hard labor in the Penitentiary not exceeding fifteen years.

Sec. 40. If any person shall commit the abominable and detestable crime against nature, either with mankind or with any beast, he shall be punished by confinement to hard labor in the Penitentiary not exceeding five years.

#### OFFENCES AGAINST THE PUBLIC HEALTH.

Sec. 41. If any person shall knowingly sell the flesh of any animal dying otherwise than by slaughter, or slaughtered when diseased, or any kind of diseased, corrupted or unwholesome provisions, whether for meat or drink, without making the same fully known to the buyer, he shall be punished by fine not exceeding one hundred dollars, and imprisoned in the county jail not more than six months.

Sec. 42. If any person shall fraudulently adulterate, for the purpose of sale, any substance intended for food, or any wine, spirits or malt liquor or other liquor, intended for drinking, with any substance injurious to health, he shall be punished by fine not exceeding three hundred dollars, and by imprisonment in the county jail not exceeding one year.

Sec. 43. If any person shall fraudulently adulterate, for the purpose of sale, any drug or medicine in such a manner as to render the same injurious to health, he shall be punished by fine not exceeding five hundred dollars, and imprisonment in the county jail not more than one year.

Sec. 44. If any person shall permit any gaming table or bank for gaming to be kept or exhibited in his or her house, or shall rent a house or room for such purpose, he or she shall.

on conviction, be fined not less than one hundred nor more than five hundred dollars.

Sec. 45. That if any person shall sell, give or barter any ardent spirits, arms or ammunition to an Indian, such person shall, on conviction thereof in the District Court, be fined in a sum not less than ten nor more than one hundred dollars for each offence.

#### OFFENCES AGAINST SLAVES AND SLAVE PROPERTY.

Sec. 46. If any person advise or conspire with a slave to rebel or make insurrection, or with any person to induce a slave to rebel or make insurrection, he shall be punished with death, whether such rebellion or insurrection be made or not.

Sec. 47. The master of any steamboat or other vessel who shall carry or cause to be carried out of any county a slave, without the consent of the owner or employer, with intent to deprive the owner of such slave, or who shall knowingly receive on board any runaway slave, and permit him to remain on board without proper efforts to apprehend him, shall be confined in the Penitentiary not less than two, nor more than ten years.

Sec. 48. Every person who shall steal, take and carry away or entice away any slave, the property of another, shall be punished by confinement to hard labor in the Penitentiary not less than three nor exceeding fifteen years.

Sec. 49. Every person who shall attempt to steal or entice away a slave from the owner or employer, shall be confined in the Penitentiary not less than one nor more than ten years.

Sec. 50. If a free person advise any slave to abscond from his master or employer, or aid such slave to abscond, by procuring for or delivering to him a pass or other writing, or by furnishing him money, clothes, provisions or other facility, he shall be confined in the Penitentiary not less than three nor more than five years.

Sec. 51. If any master of a vessel or other person shall knowingly import or bring into this State any slave who shall be a fugitive from justice, or shall have been sold or convicted for crime beyond the limits of this State, he shall be confined in jail not less than six months, and fined one hundred dollars.

#### GENERAL PROVISIONS.

Sec. 52. If any mortal wound be given, or other violence or injury inflicted, or any poison be administered in one county

by means whereof death shall ensue in another county, the offence may be prosecuted and punished in either county.

Sec. 53. If a mortal wound be given, or other violence or injury be inflicted, or poison administered on the high seas or land, either within or without this State, by means whereof death shall ensue in any county in this State, such offence may be prosecuted and punished in the county where such death may happen.

Sec. 54. In every prosecution for writing or publishing a libel, the defendant may give in evidence in his defence, the truth of the matter contained in the writing or publication charged to be libellous. Provided, that such evidence shall not be deemed a sufficient justification, if it shall be made to appear on trial that the matter charged to be libellous was maliciously written or published.

Sec. 55. Whenever any person shall be convicted of an offence the punishment of which shall be confinement to hard labor in the Penitentiary for any term of years, and it shall have been alleged in the indictment and admitted or proved on the trial, that such convict was twice before sentenced to confinement to hard labor in the Penitentiary of this State or in some other State prison in the United States, and at each time for more than one year, he shall be punished by confinement to hard labor in the Penitentiary for the longest time prescribed for the offence of which he shall stand convicted.

Sec. 56. The plea of benefit of Clergy is not receivable in this State, and the distinction between murder and petit treason is abolished, and the last named offence shall be prosecuted and punished as murder.

Sec. 57. Every offence which is punishable by death or by confinement to hard labor in the Penitentiary, either absolutely or as an alternative, is a felony; every other offence is a misdemeanor.

Sec. 58. All offences known to the common law of England as now practised and understood, which are not provided for in this or the other statutes of this State, shall be punished by fine or imprisonment in the county jail, or both, at the discretion of the jury.

Sec. 59. A common law offence for which punishment is prescribed by the statute, shall be punished only in the mode prescribed by statute, shall be punished only in the mode prescribed.

Sec. 60. The commission of a felony shall not stay or merge any civil remedy.

Sec. 61. An accessory, either before or after the fact, may,



whether the principal felon be convicted or not, or be amenable to justice or not, be indicted, convicted and punished in the county where he became accessory, or in which the principal felon might be indicted.

Sec. 62. No person who is not jointly tried with the defendant shall be incompetent to testify in any prosecution by reason of interest in the subject matter thereof.

Sec. 63. In a criminal prosecution other than for perjury, evidence shall not be given against the accused or any statement made by him as a witness on a legal examination.

Sec. 64. When a person is convicted of two or more offences before sentence is pronounced for either, the confinement to which he may be sentenced upon the second, or any subsequent conviction, shall commence at the termination of the previous term or terms of confinement.

Sec. 65. All allegations in an indictment or other accusation which are unnecessary to be proved, may be omitted.

Sec. 66. No indictment or other accusation shall be quashed or deemed invalid for omitting to set forth that it is upon the oaths of the jurors, or upon their oaths and affirmation, or for the insertion of the words "upon their oaths" instead of "upon their oath," or for not alledging that the offence was committed "within the jurisdiction of the Court," when the averments show that the case is one of which the Court has jurisdiction, or for the omission or misstatements of the title, occupation, estate or degree of the accused; or of the name or place of his residence; or for omitting the words "with force and arms," or the statement of any particular kind of force and arms; or for omitting to state, or stating imperfectly the time at which the offence was committed, when time is not the essence of the offence; or for failing to allege the value of an instrument which caused death, or that it was of no value; or for omitting to charge the offence to be "against the form of the statute" or "statutes;" or for the omission or insertion of any other words of mere form or surplusage.

Sec. 67. No indictment or other accusation shall be abated for any misnomer of the accused, but the court may, in case of misnomer appearing before or in the course of the trial, forthwith cause the indictment or accusation to be amended accord- to the fact.

Sec. 68. In cases of misdemeanors, no exception for defect or want of form in the presentment or other accusation shall be allowed so as to dismiss the prosecution, but the District-Attorney may amend the same under the direction of the court according to the right of the case.

Sec. 69. Judgment in any criminal case after verdict, shall not be arrested or reversed upon any exception to the indictment or other accusation, if the offence be charged with sufficient certainty for judgment to be given thereon according to the very right of the case.

Sec. 70. There shall be no discontinuance of any criminal prosecution by reason of the failure of the court to award process or to enter a continuance of record.

Sec. 71. A person indicted for felony shall be personally present during the trial. If when arraigned, any person who will not plead or answer, and do not confess his guilt, the court shall have the plea of not guilty entered, and the trial shall proceed as if the accused had put in that plea.

Sec. 72. Every person convicted of a misdemeanor as defined in this act, who shall be convicted a second time or oftener for a like offence, shall be liable to at least double the penalty which may have been adjudged against him on the first conviction.

Sec. 73. All recognizances and bonds to answer for any breach of a criminal statute, breach of the peace, to keep the peace, or in any case where a recognizance may be necessary in the administration of the criminal law, shall be made payable to the State of Texas.

Sec. 74. A person in prison on a criminal charge shall be discharged from imprisonment, if he be not indicted or otherwise accused for trial before the end of the first term of court at which he is held to answer, unless it appear to the court that material witnesses for the State have been enticed or kept away, or prevented from attending by sickness or inevitable accident.

Sec. 75. All misdemeanors shall be prosecuted by indictment or other accusation within two years after the commission of the offence, and not after. All felonies, except murder, manslaughter, treason, rape, robbery from the person and burglary, shall be prosecuted by indictment within five years after the commission of the offence, and not after; and murder, manslaughter, treason, rape, robbery and burglary shall be prosecuted within ten years after the commission of the offense, and not after.

Sec. 76. The time limited for the prosecution of an offence shall not be construed to relieve any offender who fled from the State, or secreted himself so that he could not be found, but the time of his absence from the State or secretion of himself shall be left out in the computation of the time of limitation.

Sec. 77. Criminal process from any court, whether original, mesne or final, may be directed to the Sheriff of any county; several writs of *capias* may be directed in the same case against the same person at the same time, or different times, to officers of different counties.

Sec. 78. When process of arrest in a criminal prosecution is issued from a court during its session, either against a party accused or a witness, the officer to whom it is directed or delivered may execute it in any part of the State.

Sec. 79. In a prosecution for grand larceny, if it be found that the thing stolen is of less value than twenty dollars, the jury may find the accused guilty of petit larceny, and in a prosecution for petit larceny, though the thing stolen be of the value of twenty dollars or more, the jury may find the accused guilty; and in either case he shall be sentenced for petit larceny.

Sec. 80. On an indictment for felony, the jury may find the accused not guilty of felony, but guilty of an attempt to commit such felony; and where the punishment is not otherwise provided for, the person so convicted may be punished at the discretion of the jury, by fine and imprisonment in the county jail, or either, or by confinement in the Penitentiary not less than one nor more than two years.

Sec. 81. No offence committed, and no penalty or forfeiture incurred previous to the time this act shall take effect, shall be affected thereby, except that when any punishment, forfeiture or penalty shall have been mitigated by the provisions of this act, such provision shall apply to and control any judgment to be pronounced upon the offender.

Sec. 82. When appeals shall be taken after conviction, in cases of misdemeanor as defined by this act, the defendant may enter into recognizance with sufficient security in such sum as the District Court may require, conditioned that the defendant will appear at the next term of the District Court, and from term to term thereafter, then and there to abide whatever judgment or decree the Supreme Court may render; and if the defendant fail to appear according to the terms of such recognizance, proceeding shall be had thereon as in ordinary cases, for the purpose of forfeiting such recognizance; but if the defendant neglect to give such recognizance, the court shall commit such defendant to jail until such recognizance is given, or until he shall be discharged by due course of law.

Sec. 83. When appeals shall be taken by the defendant after conviction in the District Court, in cases of felony as defined

by this act, the Judge of the District court before whom such conviction shall be had shall remand the prisoner to the jail of the county where he may have been tried, or in case the jail of said county be unsafe, then to the jail of the nearest county which is safe.

Sec. 84. That criminal causes may be continued by operation of law or by consent of parties.

Sec. 85. That trial in criminal cases may be postponed for sufficient cause shown by the accused and supported by affidavit. On the first application to postpone trial for the want of testimony material to the case, such testimony and due diligence to obtain the same shall be shown. On the second application to postpone trial for the want of testimony material to the case, such testimony, diligence to obtain the same, the cause of failure if known, that the testimony cannot be obtained from any other source, and if it be the testimony of an absent witness, the name, residence, and what is expected to be proven by the witness, shall be shown, and the court shall have the power to postpone trial on application made by the accused for any other sufficient cause, to be determined by the court.

Sec. 86. That the court shall have power to postpone trial at the instance of the District Attorney, for such cause as the court may deem sufficient.

Sec. 87. That every person of sound memory and discretion, who shall unlawfully kill any reasonable creature in being within this State, with malice aforethought, either express or implied, shall be deemed guilty of murder.

Sec. 88. That every person of sound memory and discretion, who shall unlawfully aid, abet or instigate the killing of any reasonable creature in being within this State, with malice aforethought, either express or implied, shall be deemed guilty of murder.

Sec. 89. That this act shall take effect from and after the first day of May, A. D., eighteen hundred and fifty-four, and after that date, all laws and parts of laws conflicting with the provisions of this act shall be repealed.

Approved, February 9, 1854.

## CHAPTER L.

An Act to amend the twenty-second section of "an act to provide for the Assessment and Collection of Taxes," approved February 11, 1850.

Section 1. Be it enacted by the Legislature of the State of Texas, That the 22d section of the act of February 11, 1850, entitled "an act to provide for the Assessment and Collection of Taxes," be so amended as to read as follows, to wit: It shall be the duty of every Assessor and Collector to forward to the Comptroller every three months, a statement in writing of all moneys collected by him for State taxes, and for county taxes on property in counties other than his own, giving the names of persons from whom such taxes were received, and he shall at all times pay any drafts drawn on him by the Comptroller or Treasurer, whenever he shall have funds of the State in his hands, and he shall, on or before the first day of June in each and every year, pay over to the Treasurer of the State all moneys collected by him for State taxes and for county taxes, on property in counties other than his own; it shall also be the duty of every Assessor and Collector, every three months, to return to the county Treasurer of his county a statement in writing of all amounts collected for county taxes on property situated in his county, with the names of the persons from whom received, distinctly specifying in the said statement what amounts were received in money, and who from, and what amount in county liabilities, which are by law receivable in payment of county taxes, and who from; and he shall also pay over to the County Treasurer of his county, every three months, all county taxes collected by him on property situated in his county, in the money and county liabilities received by him as aforesaid, in the proportion that he received the same from the tax payer, and on his assessment of taxes for counties other than his own county. The Assessor and Collector shall assess and collect a county tax of one-half of the State tax; and on failure of the said Assessor and Collector to make out and return the statement and pay over to the County Treasurer as above provided, such collector and his sureties shall be liable to be sued upon their bond or bonds, for the damages sustained by any party interested, and shall moreover be liable upon conviction by indictment, to pay a fine of not less than fifty nor more than five hundred dollars, and be removed from office.

Approved, February 9, 1854.

## CHAPTER LI.

An Act to change the 5th section of an act creating the County of Tarrant, approved December the 20th, 1849.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Commissioners, Vincent J. Huttan, Walling R. Rogers, — Little, Col. M. T. Johnson and Saunders Elliott of Tarrant county be, and they, or a majority of them, are hereby authorized to deliver to the Clerk of the County Court, all the books, papers, maps and evidences of debt arising from the sale of town lots within sixty days after the passage of this act.

Sec. 2. That the Chief-Justice and County Commissioners shall have the control of the sale of town lots in the county seat of Tarrant county, and the Chief-Justice shall make a deed to each town lot purchased by any person so soon as the county may obtain a deed for the same, and the said lots are paid for by the purchaser or any person for him or her; and so much of the 5th section of the act creating the county of Tarrant as conflicts with the provisions of this act be, and the same is hereby repealed; and that this act take effect and be in force from and after its passage.

Approved, February 10, 1854.

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CHAPTER LII.

Joint Resolution to fix the per diem pay of the Officers of the two Houses of the Legislature.

Section 1. Be it resolved by the Legislature of the State of Texas, That the officers of the two Houses of the present Legislature, and the officers of the Legislatures hereafter to assemble, shall each receive five dollars per day, for each day they may serve, and the same shall be paid upon the certificate of the Secretary of the Senate, or Chief Clerk of the House of Representatives, out of any moneys appropriated for that purpose; and that this resolution take effect from its passage.

Approved, February 10, 1854.

CHAPTER LIII.

An Act supplemental to "An Act entitled an act to perfect Land Titles in Castro's Colony," approved January twenty-second, eighteen hundred and fifty.

Section 1. Be it enacted by the Legislature of the State of Texas, That the eleventh section of the above recited act, be so amended as to read as follows: Be it further enacted, that the Colonists and Contractors be, and they are hereby allowed until the first day of March, one thousand eight hundred and fifty-five, in which to obtain their certificates under the provisions of the act to which this is a supplement.

Sec. 2. That the Governor be, and he is hereby authorized and required to appoint a commissioner, whose duty it shall be to issue the certificates contemplated in the first section of this act, under the same rules and regulations contained in said act above recited; and that this act be in force from and after its passage.

Approved, February 10, 1854.

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CHAPTER LIV.

An Act relating to Surveys of Land in certain cases.

Section 1. Be it enacted by the Legislature of the State of Texas, That surveys of land may be made in more than two places by virtue of any genuine land certificate, bounty warrant or other legal evidence of claim to land; provided, such other places be bounded by previous surveys, and shall be enough to satisfy only a part or the whole of said claim, which fact shall be specially certified to by the surveyor making the survey.

Sec. 2. That this act shall take effect from its passage.

Approved, February 10, 1854.

## CHAPTER LV.

An Act to have the Laws, Civil and Criminal, amended, supplied, revised, digested and arranged.

Section 1. Be it enacted by the Legislature of the State of Texas, That it shall be the duty of the Governor, by and with the advice and consent of the Senate, to appoint three Commissioners, whose duty it shall be to prepare a code amending, supplying, revising, digesting and arranging the laws, Civil and Criminal, of the State, to be submitted to the Legislature for its future action; and should any vacancy or vacancies occur in said commission in the recess of the Senate, by refusal to accept, death, resignation or otherwise, the Governor is authorized and required to fill the same by appointment.

Sec. 2. That said Commissioners shall prepare said code and report the same to the Governor at least sixty days before the regular time of holding the next biennial session of the Legislature.

Sec. 3. That it shall be the duty of the Governor of the State, after said code has been reported to him, to have at least two hundred copies of the same, together with the report of said Commissioners, printed, and report the same to the Legislature as soon as practicable after its meeting.

Sec. 4. That said Commissioners shall have the right to take from the office of the Secretary of State, and the Library of the Supreme Court, any books necessary for the performance of their duties under this act, upon giving their receipts therefor; and they shall be responsible for the return of the same within a reasonable time.

Sec. 5. That each of said Commissioners shall be paid from the Treasury the sum of fifteen hundred dollars per annum, while engaged in the performance of the duties prescribed by this act; which sum shall be paid quarterly out of any money in the Treasury not otherwise appropriated; and that this act take effect from and after its passage.

Approved, February 10, 1854.



CHAPTER LVI.

An Act authorizing the Chief-Justice of Galveston county to exercise the jurisdiction of a Justice of the Peace.

Section 1. Be it enacted by the Legislature of the State of Texas, That hereafter the Chief-Justices of Galveston county shall have and exercise all the jurisdiction of a Justice of the Peace for the said county of Galveston, and shall have power to issue all writs, civil and criminal, and hear and determine all causes, in the same manner and with the same effect, as is now prescribed by law for Justices of the Peace in the various counties of this State.

Sec. 2. That he shall keep a docket in the same manner as is now prescribed by law for Justices of the Peace; he shall reside in the city of Galveston, and shall have jurisdiction concurrent with the Justices of the Peace of the several beats to the extent of the corporate limits of said city; shall hold his courts as a justice aforesaid, on the first Monday of each and every month, and may continue in session till all the business before him is disposed of.

Sec. 3. That the criminal cases coming before him shall be disposed of without waiting for the regular days of his court, in as speedy a manner as is compatible with justice and the public interest.

Approved, February 10, 1854.

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CHAPTER LVII.

An Act to fix the Salaries of certain State Officers.

Section 1. Be it enacted by the Legislature of the State of Texas, That the following salaries shall be annually allowed and paid the various officers herein mentioned, viz:

Attorney-General, eighteen hundred dollars.

Comptroller, eighteen hundred dollars.

Chief Clerk in Comptroller's office, twelve hundred dollars.

Clerk in charge of tax bureau, in Comptroller's office, twelve hundred dollars.

Other Clerks in said office, nine hundred dollars.

Treasurer, eighteen hundred dollars.

Treasurer's Clerk, nine hundred dollars.

Auditor, fifteen hundred dollars.

Superintendent Penitentiary, twelve hundred dollars.

Clerk in Penitentiary, nine hundred dollars.

Secretary of State, eighteen hundred dollars.

Clerk in State Department, nine hundred dollars.

Adjutant-General, twelve hundred dollars.

Governor's Private Secretary, nine hundred dollars.

Sec. 2. This act shall take effect from its passage.

Approved, February 11, 1854.

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#### CHAPTER LVIII.

An Act to change the Northern Boundary of Lavaca county.

Section 1. Be it enacted by the Legislature of the State of Texas, That the northern boundary line of Lavaca county be changed as follows: Beginning at a point on Lavaca creek, where the present north boundary line of Lavaca county crosses the same; thence up said creek to a point lying due west of the upper corner of Marmaduke Sandifer's survey, on the west bank of the Navidad river; thence due east to said point on Navidad river.

Sec. 2. This act shall take effect and be in force from its passage.

Approved, February 11, 1854.

CHAPTER LIX.

An Act to extend the provisions of an act, entitled "an act to provide for ascertaining the Debt of the late Republic of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That the provisions of the act entitled "an act to provide for ascertaining the debt of the late Republic of Texas," approved March 20, 1848, be, and the same are hereby extended until the first day of August, one thousand eight hundred and fifty-five; and all claims of whatsoever character which shall not be presented for adjustment to the Auditor and Comptroller on or before that day shall be forever barred.

Sec. 2. That it shall be the duty of the Auditor and Comptroller to give three months' notice of the extension of the provisions of the aforesaid act in three newspapers published in the State of Texas, and in one paper published in each of the cities of New York, Philadelphia, Washington, Louisville (Kentucky,) and New Orleans.

Sec. 3. That the sum of five hundred dollars, or so much thereof as may be necessary, is hereby appropriated to carry this act into effect, and that the same be in force from and after its passage.

Approved, February 11, 1854.

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CHAPTER LX.

An Act to amend an act to Organize County Courts, approved March sixteenth, eighteen hundred and forty-eight.

Section 1. Be it enacted by the Legislature of the State of Texas, That the twenty-second section of the above recited act be so amended that it shall read as follows: That the Chief-Justice and County Commissioners each receive three dollars for every day they may be necessarily engaged in attendance on any regular term of said court that they are required to hold, to be paid out of the County Treasury, but they shall not be paid for any special term.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved, February 11, 1854.

## CHAPTER LXI.

## An Act to provide for the Establishment of Cotton and Woollen Factories in the Penitentiary.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Superintendent of the State Penitentiary, under the direction of the Board of Directors, be, and he is hereby authorized and directed to erect or cause to be erected, suitable buildings within the walls of the same, as far as practicable, by the labor of the convicts, for the reception of an engine and machinery for the manufacture of coarse cotton and woollen goods, sufficient to employ the labor of at least fifty convicts.

Sec. 2. That the Superintendent, under the direction of the Board of Directors, shall cause to be procured as early as may be necessary, a suitable engine and machinery for the aforesaid purpose; and that the sum of thirty-five thousand dollars, or as much thereof as may be necessary, be, and the same is hereby appropriated to carry this act into effect.

Sec. 3. That said machinery shall be kept constantly at work and in operation, and as much labor applied to the manufacture of coarse cotton and woollen goods as can be advantageously employed for that purpose.

Sec. 4. That the Superintendent, under the direction of the Board of Directors, shall, if they deem it expedient, employ an engineer and a sufficient number of master workmen to carry the factory system in said institution into successful operation.

Sec. 5. That manufactured fabrics are to be sold and disposed of as other articles are disposed of that are now wrought in said Penitentiary, and the proceeds thereof to be applied to the support of said institution.

Sec. 6. That this act take effect and be in force from and after its passage.

Approved, February 11, 1854.

CHAPTER LXII.

An Act making provision for Running and Marking the Boundary line between the State of Texas and the Territories of the United States of America.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Governor of this State be, and he is hereby authorized to appoint a Commissioner, a surveyor and a Clerk, to act in conjunction with such officers as may be appointed by the United States Government, in running and marking the boundary line between the State of Texas and the territories of the United States, from the point where it leaves Red River to the point where it intersects the Rio Grande; provided, that such appointment shall not be made until a law shall have been enacted by the United States Congress, authorizing the appointment of the necessary officers on her part to join in the execution of said work.

Sec. 2. That the salary of the said Commissioner shall be fifteen hundred dollars per annum, and the salary of said surveyor shall be fifteen hundred dollars per annum, and of said Clerk one thousand dollars per annum; provided, said salaries shall be paid only for the time they are actually engaged in the performance of said work, with the allowance of a reasonable time for going to the point where said work shall be commenced, and returning from the point where said work shall be completed.

Sec. 3. That the said Commissioner and the said Surveyor be, and they are hereby authorized to employ such number of laborers and chain carriers as may be necessary in the performance of said work, not to exceed six in number, who shall receive the sum of one and a half dollars per day, during the time they are so employed.

Sec. 4. That in addition to the salaries and pay hereinbefore provided for, the persons who may be employed under this act shall be allowed and paid for the actual expenses incurred in the prosecution of their labors.

Sec. 5. That the sum of ten thousand dollars, or so much thereof as may be necessary, be, and is hereby appropriated to carry into effect the provisions of this act.

Approved, February 11, 1854.

## CHAPTER LXIII.

An Act to repeal a Joint Resolution for the Punishment of Vagrants, approved January tenth, eighteen hundred and thirty-nine.

Section 1. Be it enacted by the Legislature of the State of Texas, That a joint resolution for the punishment of vagrants, approved January tenth, eighteen hundred and thirty-nine, be and is hereby repealed; and that this act take effect and be in force from and after its passage.

Approved, February 11, 1854.

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## CHAPTER LXIV.

An Act making Appropriations for the use and support of the State Government for the years 1854 and 1855, and other purposes.

Section 1. Be it enacted by the Legislature of the State of Texas, That the following sums be, and the same are hereby appropriated for the support of the State Government for the years eighteen hundred and fifty-four and eighteen hundred and fifty-five, and other purposes.

## EXECUTIVE DEPARTMENT.

For salary of the Governor, two thousand dollars annually—four thousand dollars.

For salary of Governor's Private Secretary, nine hundred dollars annually—eighteen hundred dollars.

For rent of house for the Governor, one thousand dollars annually—two thousand dollars.

For contingent expenses of Department, five hundred dollars annually—one thousand dollars.

STATE DEPARTMENT.

For salary of Secretary of State, eighteen hundred dollars annually—thirty-six hundred dollars.

For salary of Clerk in State Department, nine hundred dollars annually—eighteen hundred dollars.

For contingent expenses, two hundred and fifty dollars annually—five hundred dollars.

For printing, three hundred dollars annually—six hundred dollars.

For postage, two hundred dollars annually—four hundred dollars.

For stationery, one hundred dollars annually—two hundred dollars.

For desks and other furniture, three hundred dollars.

TREASURY DEPARTMENT.

For salary of Treasurer, eighteen hundred dollars annually—thirty-six hundred dollars.

For salary of Clerk in said Department, nine hundred dollars annually—eighteen hundred dollars.

For contingent expenses, two hundred dollars annually—four hundred dollars.

For stationery, postage and printing, one hundred and fifty dollars annually—three hundred dollars.

COMPTROLLER'S OFFICE.

For salary of Comptroller, eighteen hundred dollars annually—thirty six hundred dollars.

For salary of Chief Clerk, twelve hundred dollars annually—twenty-four hundred dollars.

For salary of Clerk of the Tax Bureau, twelve hundred dollars annually—twenty-four hundred dollars.

For salary of five Assistant Clerks, nine hundred dollars, each, annually—nine thousand dollars.

For contingent expenses, two hundred and fifty dollars annually—five hundred dollars.

For stationery and books, three hundred dollars annually—six hundred dollars.

For printing, three hundred and fifty dollars annually—seven hundred dollars.

For postage, three hundred and fifty dollars annually—seven hundred dollars.

For porter hire, one hundred dollars annually—two hundred dollars.

For outstanding claims against Comptroller's office, five hundred and five dollars.

#### AUDITOR'S OFFICE.

For salary of Auditor, fifteen hundred dollars annually—three thousand dollars.

For the pay of a Clerk in Auditor's office, nine hundred dollars annually—office of said Clerk to expire on the 1st day of August, eighteen hundred and fifty-five.

For contingent expenses, two hundred dollars annually—four hundred dollars.

Outstanding claims against said office, two hundred and eighty dollars.

#### GENERAL LANDOFFICE.

For salary of Commissioner, two thousand dollars annually—four thousand dollars.

For salary of Chief Clerk, twelve hundred dollars annually—twenty-four hundred dollars.

For salary of translator, twelve hundred dollars annually—twenty-four hundred dollars.

Salary of Chief Draftsman, twelve hundred dollars annually—twenty-four hundred dollars.

Salary of two Assistant Draftsmen, eleven hundred dollars, each, annually—four thousand four hundred dollars.

Salary of two additional Assistant Draftsmen, one thousand dollars each, for one year from the adjournment of the present Legislature, two thousand four hundred dollars, or so much thereof as may be necessary.

Salary of eight Assistant Clerks, nine hundred dollars, each, annually—fourteen thousand four hundred dollars.

Salary of three additional Assistant Clerks, eight hundred dollars, each, annually—four thousand eight hundred dollars.

Salary of seven additional Assistant Clerks, eight hundred dollars each, per annum, for one year from the adjournment of the present Legislature—six thousand five hundred dollars, or so much thereof as may be necessary.

For books and stationery, five hundred dollars annually—one thousand dollars.

For postage, one hundred and fifty dollars annually—three hundred dollars.



For thirty cords of wood annually, ninety dollars—one hundred and eighty dollars.

For repairing roof of Landoffice and cistern, one hundred and fifty dollars.

For portorage, one hundred and eighty dollars annually—three hundred and sixty dollars.

For contingent expenses, two hundred and fifty dollars annually—five hundred dollars.

For additional pay due Officers and Clerks, from 26th December, 1853, to 1st January, 1854, under an act passed at the present session of the Legislature, increasing the pay of said officers—fifty-six dollars and forty cents.

For the purchase of twenty-five thousand blank patents, insurance, freight and transportation of same, eight thousand eight hundred dollars.

#### ADJUTANT-GENERAL'S OFFICE.

For salary of Adjutant-General, twelve hundred dollars annually—twenty-four hundred dollars.

For contingent expenses, including printing, one hundred and fifty dollars annually—three hundred dollars.

Two hundred and ninety-five dollars and fifty cents to reimburse James S. Gillett, for amount paid by him to clerks for services rendered in the Adjutant-General's Department.

For amount paid by J. S. Gillett, Adjutant-General, for transportation of arms and building chimney to his office—ninety dollars.

#### JUDICIARY DEPARTMENT.

For salary of three Judges of the Supreme Court, two thousand dollars, each, annually—twelve thousand dollars.

For salary of Attorney-General, eighteen hundred dollars annually—thirty-six hundred dollars.

For amount of bank bills filed by Attorney General Jennings, to be used as evidence in the trial of suits against certain individuals, for issuing bills to circulate as money—three hundred dollars.

For contingent expenses of Attorney-General, two hundred and fifty dollars, annually—five hundred dollars.

For pay of Sheriffs in attendance on the Supreme Court, rent of court rooms, Clerk's office, blank books and other incidental expenses of said court—three thousand dollars.

For pay of Robert Hughes and William E. Jones, as special

Judges of the Supreme Court in the trial of Wharton vs Lee, one hundred dollars each—two hundred dollars.

For salary of fourteen Judges of the District Courts, seventeen hundred and fifty dollars, each, annually—forty-nine thousand dollars.

For salary of fourteen District Attorneys, five hundred dollars, each, annually—fourteen thousand dollars.

For reports of the Decisions of the Supreme Court, under act of February 3d, 1852, eight thousand dollars, or so much thereof as may be necessary.

#### PENITENTIARY.

For salary of Superintendent, twelve hundred dollars annually—twenty-four hundred dollars.

For salary of Clerk, nine hundred dollars annually—eighteen hundred dollars.

For support of the Penitentiary, twenty-one thousand four hundred dollars annually—forty-two thousand eight hundred dollars.

#### MISCELLANEOUS.

For printing laws and journals of the present Legislature, nine thousand dollars, or so much thereof as may be necessary.

For distributing the laws and journals, reports of the Supreme Court of the State and laws of the United States, two thousand dollars.

For balance due C. H. Buckner for publishing laws of fourth Legislature in the German language, thirteen hundred and seventy-four dollars.

For copying the laws of the last extra session of the Legislature, for the public printer, ninety-five dollars.

For amount due Lindheimer and Von Ross for translating the Message of Governor Bell to the extra session of the fourth Legislature into the German language, fifty dollars.

For expense attending the demand for and recovery of fugitives from justice, who have escaped to other States and countries, five thousand dollars.

For the apprehension and delivery of criminals in this State, five thousand dollars.

For iron door, lock and protector to vault in new Treasury building, including freight and transportation from New York, three hundred and seventy-five dollars.

For furniture for Comptroller's, Treasurer's and Auditor's offices, in new building, including desks, tables, chairs, curtains, matting for floors, counter in Treasury and pump for cistern, twenty-five hundred dollars.

For the purchase of stationery for the next Legislature, to be drawn and disbursed under the direction of the Comptroller, fifteen hundred dollars.

For survey of land scrip, fifteen hundred dollars annually—three thousand dollars.

For pension of disabled seamen, four hundred dollars annually—eight hundred dollars.

For additional amount necessary to pay expense of transmitting block of marble to the Washington monument, and for sculpturing the same, six hundred and thirty-four dollars and seventy-five cents. Three hundred and eighty-four dollars and seventy-five cents of which amount shall be paid to Thos. S. Smith, and two hundred and fifty dollars to whoever may show himself entitled to it, for expense of sculpturing said block of marble in accordance with the directions of the Governor of this State.

For amount of costs in the case of the State of Texas vs. Edward Burleson and others, adjudged against the State by the Supreme Court thereof, at the December term, 1849, forty-four dollars and five cents.

For pension of John B. Thacker, one hundred dollars annually—two hundred dollars, payable semi-annually.

For pension of Henry Tierwester, one hundred dollars annually—two hundred dollars, payable semi-annually.

For pension of David F. Webb, one hundred dollars annually—two hundred dollars, payable semi-annually.

For pension of Michael Short of Fayette county, one hundred dollars per annum, to be paid semi-annually.

For amount due R. M. Forbes & Co., being balance of freight, storage and charges on furniture for the State Capitol, eight hundred and twenty-three dollars and eighteen cents.

For furniture and fitting up Supreme Court room, in new Capitol, three thousand dollars, or so much thereof as may be necessary.

For pay of Audited draft No. 111, dated February 19th, 1846, on affidavit of the original claimant that said draft has been lost, and that the property of the same still vests in him, two thousand seven hundred and ninety-three dollars and eighteen cents.

For amount due E. B. Scarborough for publishing proclama-

tions of Governor Bell for a day of thanksgiving, thirty dollars.

For amount due E. B. Scarborough for publications made by the Commissioners to investigate land titles west of the Nueces, thirty-five dollars.

For amount due Charles De Morse for publication of notice in the case of the State vs. Contractors of Peter's Colony, in 1850, twenty-two dollars and fifty cents.

For additional amount necessary to pay public debt certificate of second class B, seventy-five thousand dollars.

For additional amount necessary to pay expenses of the present session of the Legislature, fourteen thousand dollars, or so much thereof as may be necessary.

For amount of reward due William B. Lilly, for arresting and delivering to the proper authorities two fugitives from justice, five hundred dollars.

For expense incurred by Powell R. Edwards, in bringing back Shultz, a fugitive from justice, two hundred and fifty dollars.

For balance due Edwin Nash, on contract for hauling furniture of the capitol, eight hundred and eight dollars and seventy-two cents.

To S. M. Swenson, amount paid for hauling, five dollars and eighty-four cents.

Amount due A. H. Cook for making desks for Landoffice and for repairs on Attorney-General's office, three hundred and sixty-five dollars.

Amount due J. W. Hampton for printing and binding for Adjutant-General's office, thirty-eight dollars.

Amount due J. W. Hampton for printing and binding for General Landoffice, fifty-one dollars and fifty cents.

Amount due Wiatt W. Kennedy, as per third class public debt certificate No. 71, one hundred and twelve dollars and fifty cents, the same having been examined and reported favorably by Public Debt committee.

Amount due C. H. Randolph for executions issued by him against delinquent tax payers of Houston county, for the years A. D. 1838, 1839 and 1840, three hundred and three dollars.

Amount due John Hendrickson for cutting and fitting up frames for marble slabs in which the clocks of the two Legislative Halls are fixed, forty dollars, to be in full for both.

Amount to be paid Ernst Raven for taking care of the Senate Chamber and furniture of old capitol, up to the beginning of the present session of the Legislature, and to be in full for said service, fifty dollars.

Amount to be paid John C. Hampton for taking care of Representative Hall and furniture of old capitol, up to the beginning of the present session of the Legislature, and to be in full for said service, fifty dollars.

Amount due Nathan Mitchell for translation to Spanish of the Governor's Message, one hundred dollars.

For balance due E. M. Anderson, Sheriff of Cameron county, for transporting convicts to the Penitentiary, the sum of four hundred and sixty-six dollars and sixty-six cents.

For translating and printing such general laws and public documents of the present session in the German and Spanish languages, as the Governor may deem advisable, two thousand dollars (one thousand dollars for each language,) to be under the control and at the disposal of the Governor.

For balance due C. N. Riotte for translating and superintending the printing of the laws of the fourth Legislature in the German language, three hundred and sixty-six dollars and ninety cents.

For pension to be paid Rolla M. Davis, one hundred dollars annually, and same amount to James Nichols, each to be paid semi-annually.

For pay of S. G. Norvall as a minute man in Captain Eli Chandler's company in 1841, against the Indians, forty-four dollars.

Sec. 2. One-tenth of the annual revenue of the State arising from direct taxation is hereby set apart for educational purposes.

Sec. 3. This act shall take effect from date of passage.

Approved, February 11, 1854.

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## CHAPTER LXV.

### An Act to Provide for the Investigation of Land Titles in certain Counties therein mentioned.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Governor be, and he is hereby authorized to appoint, by and with the advice and consent of the Senate, a

board to consist of two Commissioners, who shall hold their offices until the meeting of the next Legislature; whose duty it shall be to receive and examine all titles and claims of lands lying within the counties of Kinney, Webb, Starr, Hidalgo, Cameron, Nueces, Presidio and El Paso, which emanated from the governments having and exercising jurisdiction over the country prior to the second day of March, A. D. eighteen hundred and thirty-six, and report the same as hereinafter provided; provided, that no grant shall be confirmed under this act for more than eleven leagues.

Sec. 2. That said Commissioners, before entering on the duties of their office, shall, before some District Judge, or Judge of the Supreme Court of this State, take and subscribe the oath prescribed by the Constitution, and in addition thereto, that they will not recommend any title or claim to land for confirmation which they have reason to believe is antedated, forged or fraudulent, and that they will not locate, purchase or receive by donation or otherwise, or be concerned or interested in locating, purchasing or accepting as a donation, any land or town lot, the right or title to which may be the subject of investigation during their term of service under this act, a copy of which oath shall be filed in the office of the Secretary of State.

Sec. 3. That said board of Commissioners, when appointed and qualified as aforesaid, shall open their offices and enter upon the discharge of their duties in the said counties as soon as practicable; said Board shall hold and keep its sessions at such convenient place in all of the said counties, and at such times and during such periods as to them shall seem most convenient for the people in said counties.

Sec. 4. That previous to the said Commissioners entering upon the discharge of their duties at the places contemplated in the preceding section of this act, they shall cause notices, written or printed in the English and Spanish languages, to be posted at the most noted places in that neighborhood, of the time and place of their session, and requiring all persons holding claims to lands in that county to present the same, together with their evidences of right, to said Board for investigation, within the time prescribed in such notice for holding the session of the same at such place.

Sec. 5. That the said Board shall take cognizance of all claims to lands lying within the counties above mentioned, held under authority of the government having and exercising jurisdiction in said counties; provided, said claim had its origin

in good faith prior to the second day of March, A. D. one thousand eight hundred and thirty-six.

Sec. 6. That each of said claimants, his or her agent or attorney, shall lay before and file with said Board, written in the English language, a full description of the land claimed, setting forth particularly its situation, boundaries and extent, and the titles or evidences of titles or right under which the same is held or claimed; and the said Commissioners shall investigate the same in accordance with the principles of justice, and report the same for confirmation when the title is perfect, or when imperfect, when the same might have been matured into a perfect title under the laws, usages and customs of the government under which it originated, had its sovereignty over the same not passed to and been vested in the Republic of Texas; provided, said title or imperfect title or right was originally founded in good faith.

Sec. 7. That each claim upon being filed with the Board, shall be accompanied with an affidavit made before the Board by one or more of the claimants under the same title, that the title or evidence of his claim submitted to them for investigation is not forged nor antedated, but that the same is genuine; that he is the true and lawful owner thereof, and that all the facts set forth in his petition are true to the best of his knowledge and belief; and that any claimant swearing falsely as to any one of the facts herein required to be sworn to, shall be guilty of perjury, and on conviction thereof, shall be punished accordingly.

Sec. 8. That said Commissioners shall have power to administer oaths and to issue subpoenas for all witnesses whom they may find it necessary to examine touching said claims, either in support of, or against their validity; which subpoenas shall be served by any legal officer of the county in which said Board may be sitting, or by any other person appointed by the Board for that purpose; and the witness so summoned shall be bound to appear before said Board and give testimony, under the penalty prescribed by law against defaulters or contumacious witnesses in the District Courts of this State.

Sec. 9. That the Board shall make an abstract of every claim so filed, and the evidence adduced in support of or against it, and shall accompany the same with a statement of their opinion of its genuineness and validity, and whether the same ought to be confirmed or rejected, having a due regard to the principles of justice, and to the laws, ordinances, rules and customs of the government, and authorized political authorities

under which the claim originated; all of which, accompanied by the muniments of title made out to the satisfaction of the Board, shall be transmitted to the Governor in time to be by him submitted to the Legislature at the commencement of its next session.

Sec. 10. That the Commissioners appointed under the authority of this act shall not for themselves collectively or individually, or for or in the name of any other person, purchase or receive by donation or otherwise, any parcel or tract of land or town lot, which may in whole or in part be the subject of their investigation; nor shall they receive any compensation for their services or action in relation to such claims, other than such as is provided by this act; and if either of said Commissioners shall violate the provisions of this act, he shall be subject to indictment, and upon conviction, may be fined in any sum not more than ten thousand dollars and imprisoned in the Penitentiary for such term as the court may direct, not less than six months nor more than two years.

Sec. 11. That the said Commissioners shall be entitled to receive from the Treasury of this State the sum of fifteen hundred dollars annually, each, from the fifteenth day of April next, until the first Monday in November, A. D. eighteen hundred and fifty-five, to be paid quarterly, and the said amount is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Sec. 12. That the sum of two hundred dollars, or as much thereof as may be necessary, be, and the same is hereby appropriated for the purchase of books, stationery and such contingent expenses as are indispensable for the fulfillment of the duties required by this act; provided, that before a final settlement of the account of the Commissioners, they shall file with the Comptroller just and proper vouchers for the expenditure of the said amount.

Sec. 13. That the provisions of this act shall in no manner affect patents, surveys or locations made in the Republic or State of Texas, previous to its passage, but that they shall be adjudicated in the same manner and have the same validity as if this law had not passed, and no patent shall issue on locations which have been, or which may be made until hereafter authorized by law.

Sec. 14. That in case of vacancy in the office of either of the Commissioners provided by this act, by death, resignation or otherwise, the Governor shall be authorized to fill such vacancy.



Sec. 15. That every claimant to land under this act shall pay to the said Commissioners two dollars for each application for the investigation contemplated in this act, and besides said sum of two dollars, there shall be paid by such claimant or claimants, the further sum of one dollar for each claim containing one town lot, containing one acre or less; the sum of three dollars, for every tract containing one hundred and seventy acres or less; the sum of five dollars for one league of land or part of a league greater than a labor; and if there be more than one league, the sum of five dollars for every league in the claim presented for examination to the said Commissioners; provided, that no further fees shall be required of those whose titles may be confirmed by the Legislature, except such fees as are by existing laws demanded at the General Land-office.

Sec. 16. That the Commissioners shall keep an accurate account of the moneys received as directed by the fifteenth section of this act, and shall pay the same into the Treasury of this State, and they shall severally be required to give bond in the sum of ten thousand dollars, with two good sureties, payable to the State of Texas, to be approved by either of the District Judges, conditioned to render a correct return of, and to pay into the Treasury all the moneys received by them in accordance with the fifteenth section of this act.

Sec. 17. That the Commissioners shall select and appoint a Clerk for the Board, whose duty it shall be to take down in writing the parol testimony given before the said Commissioners, to make up the abstracts required, and to do whatever writing may be required of him in his office by the said Board. He shall also be a competent interpreter and translator between the English and the Spanish languages, and shall act as such when required. He shall take and subscribe an oath before one of the Commissioners, for the faithful discharge of his duties, shall be removed at any time by both the Commissioners, and shall receive the same salary as is by this act allowed to one of said Commissioners.

Sec. 18. That it shall be the duty of the District-Attorney of each Judicial District in which said Commissioners shall set for the examination of titles, to attend to the meetings of the Commissioners and represent the interests of the State; and each Attorney, before he enters upon the discharge of his duties, under the provisions of this act, shall take the same oath as is prescribed in this act to be taken by said Commis-

sioners, which oath may be taken before one of said Commisioners.

Sec. 19. That this act shall take effect and be in force from and after its passage.

Approved, February 11, 1854.

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## CHAPTER LXVI.

An Act to prescribe the manner in which the Governor shall issue his Proclamations.

Section 1. Be it enacted by the Legislature of the State of Texas, That hereafter, it shall be the duty of the Governor, in ordering elections, or other proelamations, not particularly required by law to be published in one or more newspapers, to issue in hand-bill and transmit the same by mail to the proper officer or officers, whose duty it is to carry the proclamation into effect.

Sec. 2. That in all cases where the Governor is required by law to issue his proclamation and publish the same in some newspaper or newspapers, he shall cause such proclamation to be published in one paper published at the seat of government, and not exceeding two others in the State, which shall be in different sections of the State; and that this act take effect from its passage.

Approved, February 11, 1854.

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## CHAPTER LXVII.

An Act to amend the twenty-second section of "An Act to Regulate Railroad Companies," approved February seventh, eighteen hundred and fifty-three.

Section 1. Be it enacted by the Legislature of the State of

Texas, That the twenty-second section of the above recited act is hereby so amended, that the same shall hereafter read as follows, to wit: the width of the track or gauge of all roads in the State shall be five feet six inches.

Sec. 2. That this act shall take effect and be in force from and after its passage.

Approved, February 11, 1854.

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## CHAPTER LXVIII.

An Act to provide for the Erection and Furnishing of a Residence and Out Buildings for the Governor of the State of Texas.

Section 1. Be it enacted by the Legislature of the State of Texas, That the sum of fourteen thousand five hundred dollars, or so much thereof as may be necessary, be, and the same is hereby appropriated for the erection of a suitable residence and out buildings for the Governor of the State, and two thousand five hundred dollars be, and the same is hereby appropriated for furnishing the said residence. The said seventeen thousand dollars shall be reimbursed out of the sale of Austin City lots, as hereinafter provided for.

Sec. 2. That all the funds arising from the sales of the public lots in the city of Austin, which have not already been appropriated, be, and the same are hereby set apart to raise a fund out of which the buildings contemplated by the first section of this act shall be erected.

Sec. 3. That the Governor, Comptroller and Treasurer shall act as Commissioners for the erection of said buildings; they shall cause the outer walls of the residence for the Governor to be built of stone or brick; the dimensions and general plan and furnishing of the buildings to be left to the judgment and discretion of the said Commissioners; provided, the whole cost shall not exceed the sum of seventeen thousand dollars; provided, said Governor, Comptroller and Treasurer shall not construct a building that shall cost the State of Texas more than the sum hereby appropriated.

Sec. 4. The said Commissioners shall cause the said buildings to be erected upon the reserved half of block one hundred and thirty-six, (136) bounded on the north by College Avenue, and on the west by Brazos Street; and they shall advertise the plan of the same, and let it out by contract, to the lowest bidder, taking the obligation of the contractor or contractors, as the case may be, in double the amount of his or their bid, payable to the State of Texas, to be void only upon condition of the faithful performance of his or their contract in the premises.

Sec. 5. The Comptroller is hereby authorized and required to cause a sale to be made of a sufficient number of said public lots to carry out the provisions of this act; said sale to be conducted according to the provisions of an act entitled "an act to authorize the sale of Austin City lots," approved September third, eighteen hundred and fifty; and the Comptroller is hereby authorized to establish such rules and regulations for the government of all sales after the first sale day, as will prevent fictitious bids being received, or interfere [interfering] with the object sought to be attained by this act.

Sec. 6. Said sales shall be made at such time or times as will best subserve the public interest, (to be left to the discretion of the Comptroller.) The reserved lots adjacent to, and fronting on the four sides of the Capitol Square are hereby reserved from sale; and this act shall take effect and be in force from and after its passage.

Approved, February 11, 1854.

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## CHAPTER LXIX.

An Act to locate permanently the Seat of Justice for the County of Angelina.

Section 1. Be it enacted by the Legislature of the State of Texas, That the first Monday in June, eighteen hundred and fifty-four, be fixed as the day for holding an election in the county of Angelina for the selection of a suitable and permanent location for the seat of justice for said county, and it shall be the duty

of the Chief-Justice of Angelina county to give public notice of said election, and to issue orders for the same at the different precincts of said county, at least ten days previous to said election.

Sec. 2. That it shall be the duty of said Chief-Justice to receive and make public by advertisement, in each precinct in said county, such propositions as may be offered by at least the number of twenty citizens of said county, and the geographical centre or other place or places may be put in nomination as a suitable location for the seat of justice for said county of Angelina.

Sec. 3. That all propositions thus submitted in compliance with the second section of this act, shall be in the nature or shape of penal bonds collectable by law in the District Court, at the suit of the Chief-Justice or his successors in office.

Sec. 4. That the election of said seat of justice shall be conducted agreeable to the laws regulating elections, and the returns made to the Chief-Justice within ten days after the election, who shall publish the result and declare the place receiving the majority or highest number of votes to be the legal seat of justice for said county of Angelina, provided, any one place shall have received a majority of all the votes polled at said election; but in the event no one place shall have received a majority as aforesaid, then it shall be the duty of the Chief-Justice to order another election, after giving notice as in the first instance, putting in nomination the two places that have received the greater number of votes; which election shall be conducted and returns made as heretofore provided, and the place then receiving the highest number of votes shall be declared the seat of justice for said county of Angelina.

Sec. 5. That Francis Hill, W. S. Denman, H. Parker, Joel Hill and M. Jones, Sr., three of whom may constitute a quorum to do business, shall be, and they are hereby appointed Commissioners to lay out, sell and transfer lots; to superintend the location made and selected according to the provisions of this act, and to report to the Chief-Justice whether or not the bond or bonds containing propositions in favor of the place selected have been strictly complied with by the makers and obligors thereof.

Sec. 6. That as soon as suitable county buildings are received by the Commissioners and reported to the Chief-Justice, the Clerks of the District and County Courts and Sheriff shall remove their offices and papers to the place selected as seat of justice.

Sec. 7. That all laws and parts of laws conflicting with this act be, and the same are hereby repealed; and that this act take effect and be in force from and after its passage.

Approved, February 11, 1854.

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## CHAPTER LXX.

### An Act to define the Civil Rights of Aliens.

Section 1. Be it enacted by the Legislature of the State of Texas, That any alien, being a free white person, shall have and enjoy in the State of Texas such civil rights as are, or shall be accorded to American citizens by the laws of the nation to which such alien shall belong, or by the treaties of such nation with the United States.

Sec. 2. That aliens may take and hold any property, real or personal, in this State, by devise or descent from any alien or citizen, in the same manner in which citizens of the United States may take and hold real or personal estate by devise or descent within the country of such alien.

Sec. 3. That any alien, being a free white person, who shall become a resident of this State, and shall, in conformity with the naturalization laws of the United States, have declared his intention to become a citizen of the United States, shall have the right to acquire and hold real estate in this State, in the same manner as if he was a citizen of the United States.

Sec. 4. The ninth section of an act entitled an act to regulate the descent and distribution of intestates' estates, approved March eighteenth, eighteen hundred and forty-eight, is hereby repealed, so far as the same may be inconsistent with this act, and this act shall take effect and be in force from and after its passage.

Approved, February 13, 1854.

CHAPTER LXXI.

An Act to amend the second section of an act entitled "An Act to amend the second and seventh sections of an act entitled An Act to organize the Supreme Court of the State of Texas," approved November 30, 1850.

Section 1. Be it enacted by the Legislature of the State of Texas, That the second section of the act entitled "an act to amend the second and seventh sections of an act entitled an act to organize the Supreme Court of the State of Texas," approved November 30, 1850, be amended so as to read as follows:

Sec. 2. That the Supreme Court shall hold its sessions once in every year at the city of Austin, in the county of Travis; once in every year at the city of Galveston, in the county of Galveston, and once in every year in the town of Tyler, in the county of Smith; that the causes decided in the District Courts of the Second, Third, Fourth and Eleventh Judicial Districts, and also the causes decided in the District Courts for the counties of Gonzales and Lavaca of the Tenth Judicial District, when taken up by appeal or otherwise to the Supreme Court, shall be returnable to the Supreme Court holding its session at the city of Austin; that the causes decided in the District Courts of the First, Seventh, Tenth, Twelfth and Fourteenth Judicial Districts, except the causes decided in the District Courts for the counties of Gonzales and Lavaca, of the Tenth Judicial District, shall be returnable to the Supreme Court holding its session at the city of Galveston; that the causes decided in the District Courts of the Fifth, Sixth, Eighth and Ninth Judicial Districts shall be returnable to the Supreme Court holding its session at the town of Tyler, in the county of Smith. Provided, That the parties or their attorneys may, on filing an agreement for that purpose with the Clerk of any District Court in either of the Judicial Districts, direct the record, accompanied by a certified copy of the agreement, to be transmitted to the Supreme Court holding its session either in the city of Austin, the city of Galveston or at the town of Tyler. Provided further, that all cases where land titles are involved, taken up from the District Courts to the Supreme Court, when the State of Texas is a party, shall be returnable to the Supreme Court holding its session at the city of Austin; that the Supreme Court shall hold its session at the city of

Austin on the second Monday in November in each and every year, and may continue in session six weeks,, or until the business before the court is disposed of; at the city of Galveston on the first Monday in January, and may continue in session ten weeks, unless the business before the court is sooner disposed of; at the town of Tyler on the first Monday in April, and may continue in session until the first day of July, unless the business before the court is sooner disposed of; that all causes remaining on the docket undisposed of when this act goes into effect, which have been decided in the counties included in the First, Seventh, Tenth, Twelfth and Fourteenth Judicial Districts, shall be by the Clerk of the Supreme Court transmitted to the Supreme Court holding its session at the city of Galveston; that the causes remaining on the docket undisposed of, which were decided in the Fifth, Sixth, Eighth and Ninth Judicial Districts shall be transmitted to the Supreme Court holding its session at the town of Tyler, unless the parties or their attorneys agree that the same may be decided by the Supreme Court holding its session at the city of Austin; and that this act take effect and be in force from and after its passage.

Approved, February 13, 1854.

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## CHAPTER LXXII.

### An Act to re-organize the Cook and Denton County Land Districts.

Section 1. Be it enacted by the Legislature of the State of Texas, That all the territory within the following limits shall constitute the Cook county Land District, viz: Beginning at the north-east corner of Cook county; Thence south to the south-east corner of the same; Thence west along the north boundary line of Denton county to the north-west corner of the same; thence south fourteen miles along the west boundary of Denton county; thence west to the West Fork of the Trinity; thence up said stream to where the military road leading from Preston to Fort Belknap crosses the same; thence due west thirty miles; Thence south to the Main or Salt Fork of the



Brazos; thence down said stream to the south boundary of the old Fannin Land District; thence west to the south-west corner of the same; thence north to Red River; thence down said stream with its meanders to the place of beginning.

Sec. 2. That all the territory included in the following limits shall constitute the Denton county Land District, viz: beginning on the west boundary line of Denton county, fourteen miles south of the north-west corner of the same; thence westwardly along the south boundary line of the Cook county Land District, as defined in the first section of this act, to a point thirty miles west of the present military crossing of the West Fork of the Trinity; thence south to the Brazos; thence down said stream with meanders to a point due west of the south-west corner of Tarrant county; thence east to the south-east corner of said Tarrant county; thence north along its eastern boundary line to the north-east corner of the same; thence east to the south-east corner of Denton county; thence north to the north-east corner of said county; thence west to the north-west corner of said county; thence south to the place of beginning.

Sec. 3. That it shall be the duty of the County Surveyor of each of the above Districts to have full and complete transcripts of the field-notes of all surveys already made or that may be made before the first day of March next, with complete maps of the same, situated in territory attached to their said Districts by this act, and have the same filed in their respective Landoffices, for which service they shall receive such compensation as may be allowed by the County Court of the county in which the Landoffice is situated.

Sec. 4. That the territory adjoining the first mentioned District not included in the second, be, and the same is hereby attached and made a part of said Land District first mentioned in this act.

Approved, February 13, 1854.

## CHAPTER LXXIII.

An Act supplemental to an act for ceding to the United States jurisdiction of certain Lands in this State, for Public Purposes, approved 19th December, 1849.

Section 1. Be it enacted by the Legislature of the State of Texas, That in all cases where the State of Texas may be the owner of the land which the United States may select, and wish to acquire and occupy for any of the purposes specified in the first section of the act to which this is supplemental, it shall be lawful for the Governor of this State to contract and agree for the sale thereof, and upon the payment thereof by the United States of the purchase money into the Treasury of this State, it shall be the duty of the Commissioner of the General Landoffice, upon the order of the Governor, to issue a patent to the United States in like manner as other patents are issued.

Sec. 2. That whenever the United States shall become the purchaser of any land in the manner pointed out in the preceding section, and shall desire to acquire constitutional jurisdiction over the same, for any of the purposes specified in the first section of the said act to which this is supplemental, it shall be lawful for the Governor of this State to cede said jurisdiction to the United States in the same manner and under the same restrictions as by the fourth section of said act he is authorized to make such cession on lands acquired by the United States in the manner therein authorized.

Sec. 3. This act shall take effect from and after its passage.  
Approved, February 13, 1854.

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CHAPTER LXXIV.

An Act to provide for change of Venue of Cases, which the District Judges may be disqualified from trying.

Section 1. Be it enacted by the Legislature of the State of Texas, That whenever any one of the District Judges of the

State of Texas shall be disqualified by law from trying or setting in any case pending before him, and the parties shall fail to appoint by consent a proper person to try said case, it shall be the duty of such Judge, upon the motion of any party or his attorney, interested in the cause, to change the venue of such case from the county in which he may be presiding, to the county out of his district, the county seat of which shall be nearest to the county seat at which said cause is pending, or any county the parties may agree.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved, February 13, 1854.

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## CHAPTER LXXV.

### **An Act regulating Justice's Courts in the City of San Antonio.**

Section 1. Be it enacted by the Legislature of the State of Texas, That hereafter Justice's Courts may be held in the city of San Antonio on any day of the week, Sundays, the first day of January, the twenty-fourth of June, the fourth and twenty-fifth of July, and the twelfth and twenty-fifth of December excepted.

Sec. 2. That only three days' notice shall be required to compel any defendant to appear and answer in any of said courts; provided, that in all other respects, the proceedings shall be conducted in conformity to the general acts regulating Justice's Courts in this State.

Sec. 3. That the parties to any cause may appear before a Justice of the Peace without the issuance or service of notice or process, and upon their announcing themselves ready for trial, the Justice of the Peace shall proceed to try such cause as in other causes [cases,] and that the judgments rendered in such causes shall have the same force, validity and effect as if service of notice or process had been made in the usual manner.

Sec. 4. That this act shall take effect from and after the first day of March next.

Approved, February 13, 1854.

## CHAPTER LXXVI.

## An Act creating the County of Johnson.

Section 1. Be it enacted by the Legislature of the State of Texas, That all that portion of territory lying west of Ellis county and north of Hill county and south of Tarrant county, beginning at the north-west corner of Ellis county, on the south boundary of Tarrant county; thence running due west, passing the south-west corner of Tarrant county and continuing due west to the bank of the Brazos river; thence continuing due west ten miles; thence south thirty degrees east to Bosque county; thence north sixty degrees east to the west bank of the Brazos River; thence down the same with its meanders to the north-west corner of Hill county; thence north seventy-five degrees east to the north-east corner of Hill county on the south-west boundary line of Ellis county; thence north thirty degrees west to a point directly west of the south-west corner of Dallas county to the place of beginning, shall be and the same is hereby created a separate county and called the county of Johnson.

Sec. 2. That the citizens of said county of Johnson shall be entitled to all the privileges, rights and immunities enjoyed by the citizens of other counties of this State, except the right of a separate representation, which shall remain as heretofore, to wit: for representative they shall vote with the counties of Ellis and Tarrant; for Senator, they shall vote with the counties of Dallas, Tarrant and Ellis.

Sec. 3. That the first Monday in April, eighteen hundred and fifty-four, be set apart as the day for electing county officers for said county of Johnson, and that returns of said election shall be made to and opened by Elbert M. Heath, within the time prescribed by law.

Sec. 4. That it shall be the duty of the Chief-Justice of Ellis county to divide the same into convenient precincts, and also to appoint some suitable person, by authority given under his hand and official seal, to hold said election in accordance with the existing laws of the State of Texas, who shall in accordance with the power in him vested, qualify the Chief-Justice elect and give him a certificate of his election, with all the returns of said election, and thereupon the Chief-Justice elect shall proceed to issue certificates to the proper officers elect, in and for said county, and who, after being sworn, shall proceed to take charge of the offices to which they are elected respectively.

Sec. 5. That William Balch, William Hunter, Archibald Robinson, D. Kinard and Reverend — Odam, be, and they are hereby appointed Commissioners to select three suitable places to be voted for the county seat, and all those who may see proper, may offer for the use and benefit of said county any amount of lands, moneys or other property they may think proper, and said lands so donated, shall be within five miles of the centre of said county, which donation, should the place or places put in nomination fail to be the county seat of said county, shall be null and void, but which donations for the place established as said county seat, shall be valid and obligatory, and shall be appropriated to the erection of a jail, courthouse and other public buildings for the use of said county; and all those offering donations as above stated, shall give bond with good and sufficient security to the Chief-Justice of said county at least in double the amount of said donation thus offered, to make a good and sufficient title to such lands, money or other property so donated, and on a failure to comply with this requisition, the Chief-Justice shall bring suit in the name and on behalf of said county for such failure, and recover damages on said bond before any court having competent jurisdiction of the same.

Sec. 6. That so soon as the county of Johnson shall be organized, the Chief-Justice shall give at least twenty days' notice for an election, to vote for the places put in nomination for county seat.

Sec. 7. That should there be more than two places put in nomination for the said county seat, the Chief-Justice, upon opening the polls and no one having received a majority of the votes polled, shall immediately put in nomination the two highest number of votes, and advertise a new election between the two places having received the highest number of votes, in at least four public places in said county, for at least ten days, and the place receiving the highest number of votes shall be the place established as the county seat of said county of Johnson and shall be called Wardville.

Sec. 8. That the Chief-Justice shall report the same, together with all the proceedings, to the County Court thus organized in said county.

Sec. 9. That this act take effect from and after its passage.

Approved, February 13, 1854.

## CHAPTER LXXVII.

An Act donating to actual Settlers on Vacant Public Domain one hundred and sixty acres of land.

Section 1. Be it enacted by the Legislature of the State of Texas, That all individuals who have settled upon and improved, or may hereafter settle upon and improve a portion of the vacant public domain, which has been neither filed upon, entered, located or surveyed by virtue of some genuine, legal and valid certificate or other evidence of title to land, previous to such settlement and improvement, shall have the privilege of locating and appropriating a tract of such vacant land not exceeding one hundred and sixty acres, so as to include said settlement or improvement, in preference to all other claims or claimants, and all files, entries, locations or surveys made so as to interfere with the preference granted by this act shall be null and void.

Sec. 2. That it shall be the duty of the county and district surveyors of each and every county and district, to keep a record book to be devoted exclusively to pre-emption claims, and such settlers shall each, within eight months from the passage of this act, or within eight months from the commencement of any such settlement, which may hereafter be made, cause to be surveyed the amount of land for which said settler intends to claim pre-emption privileges. And on application being made by such settler to a surveyor to have his or her said land surveyed, to include his or her improvements, he or she shall not be required to furnish the surveyor with any land certificate or other claim against the government for land, but he or she shall make an affidavit, which may be administered by such surveyor, that he or she believes that he or she has settled upon vacant land, as contemplated in the first section of this act; upon which the survey for not exceeding one hundred and sixty acres may be made, and the field-notes thereof shall be returned to the county or district surveyor of the district or county in which the land lies, who shall record the same together with the said affidavit of the settler in his pre-emption book, for which services the said surveyors may charge the fees now allowed by law for such services and no more.

Sec. 3. That each and every such settler shall prove before the Chief-Justice of the county court of the county in which he or she resides, by the testimony of two respectable citizens

of the same county, known to said Chief-Justice, that he or she is bona fide settled upon vacant land, and that he or she has resided upon and cultivated the same for the space of three years next preceding the time of making such proof, and that he or she was a resident of the State of Texas at the time of the passage of this act, and the said Chief-Justice shall, after recording in a book to be kept by him for that purpose, the application of such settler, the proof taken in support of the same and the names of the witnesses, shall deliver to such settler a certificate under the seal of his office, upon receiving a fee of two dollars therefor.

Sec. 4. That should any such settler die previous to procuring a patent for the land, including his or her settlement and improvement as provided by this act, his or her heir or heirs shall be entitled to the same preference and privileges as the deceased would have been according to the provisions of this act. That each and every such settler, upon presenting to the Commissioner of the General Landoffice the field-notes of his or her survey, together with a duly authenticated copy from the record of the county or district surveyor of his or her said affidavit, and also his or her certificate, made in accordance with the third section of this act, shall be entitled upon paying to said Commissioner the usual patent fee and no more, to a patent upon and for his or her said survey of land; provided, the same does not exceed one hundred and sixty acres.

Sec. 5. That an act approved January twenty-second, A. D. eighteen hundred and forty-five, entitled an act granting to settlers on vacant public domain pre-emption privileges, and an act approved February seventh, A. D. eighteen hundred and fifty-three, entitled an act supplementary to an act granting to settlers on public domain pre-emption privileges, be, and the same are hereby repealed, saving to all persons who have settled on the public domain as pre-emptioners, all rights which have accrued to them under the provisions of said acts, and allowing to all such pre-emptioners who have not obtained patents for their lands the option of perfecting their titles thereto, either according to the requirements of said acts or according to the provisions of this act; provided, that the provisions of this act shall not extend to any person who did not emigrate to the State prior to the passage of this act.

Sec. 6. That all land which may be settled upon under the provisions of this act, shall be liable for the State and county taxes from the time of making such survey, and no patent shall issue thereon, until all such taxes shall have been paid. And

no individual shall be entitled or allowed to appropriate or secure more than one tract or survey of land under the provisions of this act.

Sec. 7. That the provisions of this act shall not be so construed as to grant a pre-emption right to any land which by law is now reserved from location or entry; provided, that all those who have settled upon the public domain since the seventh day of February, eighteen hundred and fifty-three, and previous to the passage of this act, shall be permitted to perfect their titles to three hundred and twenty acres of land, according to the provisions of an act supplementary to an act granting to settlers on public domain pre-emption privileges, approved February seventh, eighteen hundred and fifty-three.

Approved, February 13, 1854.

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#### CHAPTER LXXVIII.

An Act to define the times of holding the District Courts in the fifth Judicial District.

Section 1. Be it enacted by the Legislature of the State of Texas, That the District Courts in the fifth Judicial District of the State of Texas, shall be held in the several counties composing the same at the times herein specified, to wit:

In the county of Newton on the first Mondays in March and September, and may continue in session one week.

In the county of Jasper on the first Mondays after the first Mondays in March and September, and may continue one week.

In the county of Sabine on the second Mondays after the first Mondays in March and September, and may continue one week.

In Shelby on the third Mondays after the first Mondays in March and September, and may continue two weeks.

In San Augustine on the fifth Mondays after the first Mondays in March and September, and may continue three weeks.

In the county of Angelina on the eighth Mondays after the first Mondays in March and September, and may continue one week.



In the county of Nacogdoches on the ninth Mondays after the first Mondays in March and September, and may continue until the business is disposed of.

Sec. 2. That all writs and process that have been or may hereafter be issued from any of the District Courts of the said fifth Judicial District, shall be considered as returnable, and shall be returned to the terms as established by this act, and shall have the same force and effect as if the same had originally been so returnable, and that all laws and parts of laws conflicting with the provisions of this act, be, and the same are hereby repealed, and that this act take effect and be in force from and after the first Monday in August, A. D. 1854, eighteen hundred and fifty-four.

Approved, February 13, 1854.

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## CHAPTER LXXIX.

An Act to locate the Seat of Justice in the County of Robertson.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Chief Justice of Robertson county be, and he is hereby authorized to order an election to locate the seat of justice for said county. If a majority of all the votes cast elect the place selected by Commissioners appointed for that purpose, the same shall be the county seat; any other place within five miles of the centre of said county, having a majority of all the votes cast, shall be declared by the Chief-Justice to be the county seat, and be known and called by the name of Owensville.

Sec. 2. That so soon as the necessary buildings shall have been erected, it is hereby made the duty of the Clerks of the County and District Courts and the Sheriff of said county, to remove their respective offices to the said seat of justice, and thereafter all courts of said county, except Justices of the Peace, shall be holden at the said town of Owensville, until otherwise directed by law.

Sec. 3. And the public archives shall be and remain at the town of Wheelock, and all courts to be holden there as now

provided by law, until the completion of the public buildings provided for in the second section of this act.

Sec. 4. And that this act take effect and be in force from and after its passage.

Approved, February 13, 1854.

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## CHAPTER LXXX.

An Act to protect the Public Buildings and Grounds of the State at and near the City of Austin.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Governor and Comptroller shall take charge of, and exercise general supervision over all the public buildings, furniture and grounds at and near the city of Austin, and said officers shall have such authority and power as may be necessary to reach and punish trespassers upon, and to protect and care for said property of the State.

Sec. 2. That the sum of six thousand dollars, or so much thereof as may be necessary to carry into effect the provisions of this act, be, and the same is hereby appropriated. Provided, that nothing in this act shall be so construed as to conflict with the acts passed for the erection of the Capitol; provided, that no fence shall be erected which shall cost more than the sum hereby appropriated; and this act shall take effect and be in force from and after its passage.

Approved, February 13, 1854.

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## CHAPTER LXXXI.

Joint Resolution, instructing the Senators and requesting the Representatives of Texas in Congress to urge upon Congress the adjustment of the indemnity due the late Republic of Texas for expenses incurred by her in defence against certain Indian Tribes belonging to the United States.

Be it resolved by the Legislature of the State of Texas, That our Senators be instructed and our Representatives be request-

ed to urge upon the Congress of the United States the settlement of the claim of the Republic of Texas against the Government of the United States, for expenses incurred in defending herself against Indian tribes belonging to the United States prior to annexation; and that they be authorised to accept or reject any proposition that may be made for the full and final adjustment thereof, subject to ratification by the Legislature.

Approved, February 13, 1854.

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CHAPTER LXXXII.

Joint Resolution to erect a Tomb over the grave of General Edward Burleson.

Be it resolved by the Legislature of the State of Texas, That one thousand dollars, or so much thereof as may be necessary, be, and the same is hereby appropriated to build a tomb over the grave of General Edward Burleson, and that the Governor of the State carry this resolution into effect.

Approved, February 13, 1854.

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CHAPTER LXXXIII.

An Act supplemental to "an act to provide for the erection of a Capitol for the State of Texas," approved February fourteenth, eighteen hundred and fifty-two, and "an act to provide for the erection of a State Capitol," approved, February seventh, eighteen hundred and fifty-three.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Governor, Comptroller and Treasurer shall

constitute a Board of Commissioners, whose duty it shall be to exercise general supervision over the Commissioners, Superintendent and Contractors, created under the acts to which this is a supplement, and they are hereby invested with such powers as may be necessary (in their discretion) to exercise to protect the interest of the State in the erection of, and connection with the Capitol, and to carry out the true objects contemplated by the acts to which this is a supplement.

Sec. 2. No money shall be drawn from the Treasury except under a strict construction of the provisions of the acts to which this is a supplement, and with the consent of the Commissioners created by this act; said Commissioners shall make a full and detailed report to the next Legislature, of every thing worthy of being noted in connection with the erection of the Capitol, and shall take charge of said building until the next meeting of the Legislature; and this act shall take effect and be in force from and after its passage.

Approved, February 13, 1854.

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#### CHAPTER LXXXIV.

Joint Resolution authorizing the Comptroller of Public Accounts to exchange certain Lots therein mentioned.

Whereas, on the twenty-seventh day of December, eighteen hundred and fifty-one, on the occasion of the death of General Edward Burleson, the joint committees of the two houses of the Legislature then in session, to select the place of interment, selected lot number five in division B, the property of A. J. Hamilton; therefore,

Section 1. Be it resolved, that the Comptroller of Public Accounts be, and he is hereby authorized and required, upon the application of the said A. J. Hamilton, to estimate the value of said lot number five, in division B, and upon the conveyance by him, the said Hamilton, to the State of Texas, of said lot, by a good and sufficient title, then it shall be the duty of the said Comptroller to select other lot or lots belonging to the State in the city of Austin, or either of the government tracts adjoining, as near the same value of said lot number five

in division B as practicable, and make title thereto to the said Hamilton; provided, that if the said lot or lots so selected by the said Comptroller, should be of greater value than the said lot number five in division B, then the said Hamilton shall pay the difference in money; and provided further, that in no case shall the State pay any difference in the value of lots.

Sec. 2. That this joint resolution take effect from its passage.

Approved, February 13, 1854.

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#### CHAPTER LXXXV.

An Act Supplemental to an act entitled an act Concerning the Archives of the Legislature, approved February sixteenth, eighteen hundred and fifty-two.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Secretary of State, the Comptroller and Attorney-General, shall constitute a Board of Commissioners, whose duty it shall be to superintend the arranging and filing of the archives of the late Republic of Texas and of the State Legislature, and also the recording of the Journals of the said Congress and State Legislature, and all other work required to be done by the provisions of an act to which this is a supplement, and to compare the copies so recorded with the originals, and if found correct, shall approve the same; shall cause the same to be deposited in the General Land-office of the State, and the said records shall have the same force and validity as the originals.

Sec. 2. That on the final completion of said work, the said Commissioners shall proceed to ascertain the actual cost of the same at fifteen cents for every hundred words, and shall deliver to the late Secretary of the Senate and the Chief Clerk of the House of Representatives, respectively, each a certificate, stating the cost of the whole work, including necessary books; which certificates shall entitle the holder or either one of them to draw from the Treasury the amount stated therein, after deducting therefrom any sum or sums of money which may have been drawn from the Treasury before the passage of

this act; provided, that the whole amount drawn on account of said work shall not exceed eleven thousand five hundred dollars; and further provided, that no further sum or sums of money shall be drawn under the provisions of this or of the act to which this is a supplement, until said work is completed in all respects as required by the provisions of the above recited act, and the Secretary of State, so soon as published, shall deposit in the Landoffice building with said archives, copies of the special and general laws and journals of the two houses of the preceding legislature.

Sec. 3. That this act take effect and be in force after its passage.

Passed, February 11, 1854.

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## CHAPTER LXXXVI.

An Act authorising Patents to be issued in certain cases decided by the District Court.

Whereas, many citizens who held orders of survey issued under the colonization laws prior to the declaration of independence by the Republic of Texas, under which "orders" surveys had actually been made, in some cases, and other citizens claimed first class headrights; and whereas, by virtue of the twelfth section of the act of the 14th December, 1837, entitled "an act to reduce into one act and to amend the several acts relating to the establishment of a General Landoffice," the claimants to headright certificates and the holders of said "orders of survey" were required to submit their claims and "orders of survey" to the examination of the board of land commissioners created by said act; and whereas, the said board of land commissioners in some cases refused to issue certificates for headrights; in others refused to issue certificates recognizing the "orders of survey" as valid, from which decision, in many instances, parties appealed to the District Court under the sixteenth section of said act; and whereas, such appeals were pending in the District Court when the authority of the board of land commissioners to issue certificates under the sixteenth section of

the before recited act was repealed, before the decision of the District Courts on the appeal, and in other cases before the parties could apply for the same; and whereas, there is no court or person vested with authority to issue certificates in accordance with law, as provided in the 16th section of the aforesaid act. Therefore,

Section 1. Be it enacted by the Legislature of the State of Texas, That in all cases where appeals were taken from the decision of the board of land commissioners, under the 16th section of the act referred to in the preamble, when by the decree of the District Court the appellant is declared to be entitled to a specified quantity of land, from which decree no appeal has been taken and prosecuted to effect, or when the decree of the District Court remains unappealed from in force and unreversed, the Judge of the District Court presiding in the county where such decree was or may be rendered, is hereby authorised, in term time or in vacation, to direct the Clerk of the Court to issue the certificate which was required to be issued by the board of land Commissioners under the 16th section of the aforesaid act, which certificate shall be approved by the District Judge and issued under the seal of the court, and the Commissioner of the General Landoffice is hereby required to issue patents on certificates so issued as in other cases; provided, the party applying for a certificate shall file with the Clerk of the District Court an affidavit "that no certificate has heretofore been issued under a general or special law, in virtue or on account of the right or claim to land for which I now seek to obtain a certificate.

Sec. 2. That any certificate issued contrary to the true meaning and intent of this act shall be void; and that this act shall take effect and be in force from and after its passage.

Passed, February 8, 1854.

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## CHAPTER LXXXVII.

An Act to authorize the Cancellation of Patents in certain cases.

Section 1. Be it enacted by the Legislature of the State of Texas, That where a patent to land has been or may hereafter, through mistake, be issued, upon any valid claim for land which is afterwards found to be in conflict with any older title, it shall

be competent for the owner of such patent to return the same to the Commissioner of the General Landoffice for cancellation, and should it appear from the records of the General Landoffice, or from a duly certified copy of a judgment of any court of competent jurisdiction, before which the title to such land may have been adjudicated, that such conflict really exists, and from proper evidence exhibited to said Commissioner, that the party applying is the just and legal owner of the patent thus presented, it shall be lawful for him to cancel the patent and deliver the certificate or other evidence of claim upon which it is issued to the owner for re-location.

Sec. 2. That in cases where there is only a partial conflict, the Commissioner of the General Landoffice may, under like circumstances, and in like manner as is provided for in the first section of this act, cancel any patent presented to him, and issue a patent to the applicant for such portion of the land covered by his patent as may not be in conflict with the older title, where from the field notes the same may be done, and also issue to such applicant a certificate for the unlocated balance of the claim embraced in such canceled patent, which certificate may be located, surveyed under, and patented upon as in other cases.

Sec. 3. That this act shall be in force and take effect from and after its passage.

Passed, February 3, 1854.

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## CHAPTER LXXXVIII.

### An Act Regulating and Restricting the sale of Spirituous Liquors.

Section 1. Be it enacted by the Legislature of the State of Texas. That from and after the passage of this act, there shall be no more license issued or granted to any person or firm in this State, authorizing said person or firm to sell spirituous or vinous liquors in less quantity than one quart, from and after the first Monday of August next, unless a majority of the qualified electors shall at an election to be held for that purpose, as provided for in the second section of this act, cast their votes in favor of the granting such license.



Sec. 2. That it shall be the duty of the Governor to order an election to be held in each and every county of this State, to determine whether or not the sale of spirituous or vinous liquors in less quantity than one quart, shall be abolished or continued; the said election shall be held on the first Monday in August next, and returns made as in all elections for county officers, and the vote shall be for or against said license, and if upon counting the votes thus cast and returned, there shall be found to be a majority of votes cast for the license, then and in that case license may issue upon proper application, to any person or firm as heretofore, to sell spirituous or vinous liquors in less quantity than one quart, but if a majority of votes so cast shall vote against the license, then there shall be no more license issued to any person or firm to sell as aforesaid.

Sec. 8. That in the event of an election being held in any county or counties of this State in the manner and for the purpose mentioned in the second section of this act, and decided in favor of the license, it shall be the duty of the Chief-Justice of any county so voting, upon the petition of any fifty persons over the age of twenty-one years, and citizens of said county, to order a second election for said purpose as directed in said second section of this act, at any time after one year from any former election for said purpose, and if at said election a majority of the votes cast shall be found to have been cast against said license, then there shall be no more license granted or issued to any person or firm to sell spirituous or vinous liquors in less quantity than one quart in said county.

Sec. 4. That any person or firm violating the provisions of this act shall be guilty of an offence, and be subject to a fine of not less than ten nor more twenty dollars for each and every offence so committed, recoverable before any court of competent jurisdiction of the same, and said fine when so collected shall be paid over to the County Treasurer for the use of the county where said offence was committed.

Passed, February 11, 1854.

## CHAPTER LXXXIX.

An Act to amend the ninth and tenth sections of "An Act to regulate the License and Practice of Attorneys and Counsellors at Law," approved, May 12, 1846.

Section 1. Be it enacted by the Legislature of the State of Texas, That the ninth section of the act recited in the caption hereof be so amended as to read as follows: Section 9. That any prosecution under the fifth and eighth sections of this act, or for a contempt involving fraudulent or dishonorable conduct, or mal-practice, may be instituted by motion or information of any two or more practising attorneys of any court in which the party prosecuted may practice; of which motion or information a copy shall be served on the defendant at least five days before the trial thereof; and the motion or information shall be made and carried on in the name of the State of Texas."

Sec. 2. That the tenth section of the act recited in the caption hereof be so amended as to read as follows: Section 10. Each attorney and counsellor at law shall be subject to fine or imprisonment by any court in which he may practice, for misbehavior or contempt offered to such court; but no court shall strike an attorney and counsellor at law from the rolls for contempt, unless it involve fraudulent or dishonorable conduct, or mal-practice, in which case proceedings may be had as directed in the preceding section; and any attorney and counsellor at law who may be charged with contempt in the District Court, shall have the right to a trial by jury, should he demand it, and may plead not guilty as in prosecutions for misdemeanors, whereupon a jury shall be empaneled to try the cause, and if the jury find the accused guilty, they shall assess the punishment, and the court shall enter judgment in accordance with the verdict of the jury.

Passed, February 11, 1854.

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CHAPTER XC.

An Act to prevent the sale of Intoxicating Liquors within five miles of the town of Marshall, except for Medicinal, Mechanical or Sacramental purposes.

Section 1. Be it enacted by the Legislature of the State of

Texas, That there shall be no more spirituous or vinous liquors or cider of any kind, sold within the town of Marshall, situated in the county of Harrison, State of Texas, nor within five miles of the courthouse in said town, excepting for medicinal, mechanical or sacramental purposes, unless a majority of the qualified electors living in the town and territory thus exempted shall at an election to be held for that purpose vote against said exemption.

Sec. 2. That said election shall be ordered by the Chief-Justice of said county of Harrison on application of any five or more persons, citizens of said town or territory, by giving at least ten days notice of the same, and said election shall be held in all respects as other elections for county purposes, and if a majority of the votes cast at said election shall be found to have been cast against such exemption, then it may be lawful to sell spirituous or vinous liquors or cider, within said town and territory adjoining, and not otherwise.

Sec. 3. That any person violating the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof before any court of competent jurisdiction, forfeit and pay a fine of not less than five nor more than twenty dollars, for each and every such violation, and said fine when so collected shall be paid over to the County Treasurer for the use and benefit of the county of Harrison.

Passed, February 11, 1854.

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## CHAPTER XCI.

An Act to authorize the County Courts to issue unconditional Headright Certificates where conditional Certificates only have issued.

Section 1. Be it enacted by the Legislature of the State of Texas, That the County Courts of the several counties be, and they are hereby authorised and required to issue to the original claimants or their heirs (or assigns,) an unconditional certificate, where they have not been previously issued, in cases where conditional certificates have been issued.

Sec. 2. That the party applying shall present the conditional

certificate or a certified copy thereof, in case it has been located, or in case it has been lost or destroyed, a certificate of the Clerk of the County Court of the county where the conditional certificate was issued, which certificate shall be signed by the Clerk and be attested under the seal of the court. The said certificate shall state the name of the party to whom the certificate was issued, the quantity of land to which the party was entitled, the number and date of the certificate, and the time the party emigrated. The party presenting said certificate of the Clerk shall make oath that the original has been lost, mislaid or destroyed.

Sec. 3. That the party applying for an unconditional certificate shall make oath that he is a bona fide holder and owner of the claim to the unconditional certificate for which the application is made, and that the applicant has not sold, alienated or transferred his claim to the conditional certificate, and that no unconditional certificate has been issued on said claim. The applicant shall also prove by two respectable witnesses, appearing in person before the court, that the party in whose right the conditional certificate issued, did actually reside in the country and perform the duties of a citizen for the term and time of three years, or that he died in the country before the expiration of three years.

Sec. 4. That when any party applies as assignee for an unconditional certificate in virtue of a conditional certificate issued under the act of the fourth of January, eighteen hundred and thirty-nine, entitled "an act to extend to late emigrants, or those who may emigrate within a specified time, a donation of land," he shall prove that the party in whose name the conditional certificate issued, is or was living at the passage of this act. By making such proof and complying with the other sections of this act, he shall be entitled to the unconditional certificate. If the party in whose right the conditional certificate issued be dead at the passage of this act, then the unconditional certificate shall only issue in the name of his heirs.

Sec. 5. That applications for unconditional certificates can only be made in the county where the conditional certificate issued, or in the county where the applicant resides. In the latter case the fact of actual and bona fide residence must be proved.

Sec. 6. That the Chief-Justice and any two of the County Commissioners shall constitute a quorum, authorised to issue certificates under this act, and the said court shall hold a session at the courthouse in the several counties on the last Monday

in every month, and at such other times as the Chief-Justice may appoint, for the purpose of hearing applications, and the Clerk of the County Court shall act as Clerk of Courts sitting as a board of land commissioners. The oaths required to be taken by the applicant, and the testimony given by the witnesses shall be reduced to writing, and severally be signed by the applicant and the witnesses; the same shall be filed by the Clerk, and shall be recorded by the Clerk in a book to be kept for that purpose; the entries in which book shall be signed by the Chief-Justice and associate Commissioners on the termination of each meeting of the court. The court shall issue unconditional certificates to the party entitled. It shall state the name of the party to whom the original conditional certificate was issued; the quantity of land; the county where issued; the date and number of the said original certificate, and that the unconditional certificate is issued under this act. It shall be signed by the Chief-Justice and any two or more of the Commissioners; be attested by the Clerk and be issued under the seal of the Court.

Sec. 7. That on the adjournment of each sitting of said court the Clerk shall make out a list of certificates issued, which shall be signed by the court, attested with the seal thereof, and shall be **forwarded by the Chief-Justice as early as practicable to the Commissioner of the General Landoffice**, and upon the return of such list, the Commissioner of the General Landoffice shall issue patents on certificates included in said list as in other cases authorized and required by law.

Sec. 8. That in cases where the court refuse to issue certificates to the applicant, the applicant may appeal to the District Court, and should the decision be in his favor, then the Judge of the District Court shall issue the certificates, which shall be attested by the Clerk under the seal of the court, and the patent shall issue thereon as in other cases, the Clerk of the District Court forwarding to the Commissioner of the General Landoffice, under the seal of the court, a list of the certificates signed by the Judge.

Sec. 9. That all certificates falsely or fraudulently procured, or issued contrary to the true intent and meaning of this act, shall be null and void, and every person who shall falsely or fraudulently procure, or shall falsely or fraudulently attempt to procure, or shall aid in falsely or fraudulently attempting to procure, or shall falsely or fraudulently issue, or shall aid in falsely or fraudulently issuing any conditional certificate under color of this act, shall be guilty of a high misdemeanor,

and shall be punished, on conviction, by confinement in the Penitentiary for not less than five years.

Sec. 10. That each applicant shall pay a fee of three dollars, to be divided between the Chief Justice, associate Commissioners and Clerk; and that this act shall take effect from and after its passage, and be in force for and during the term of two years from and after the first day of February, eighteen hundred and fifty-four.

Passed, February 4, 1854.

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## CHAPTER XCII.

An Act granting to Henry J. Jewett, Judge of the Thirteenth Judicial District of the State of Texas, leave of absence from the State.

Section 1. Be it enacted by the Legislature of the State of Texas, That Henry J. Jewett, Judge of the Thirteenth Judicial District of the State of Texas, be, and he is hereby granted ninety days leave of absence from the State, during his term of office, at such time as may be best calculated to be most convenient to him, and be the least prejudicial to the business of the office.

Sec. 2. That this act take effect from its passage.

Approved, December 8, 1853.

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## CHAPTER XCIII.

### Joint Resolution.

Be it resolved by the Legislature of the State of Texas, That our Representatives in Congress be requested, and our Senators instructed to inquire into the reasons why the Postoffice Depart-

ment has not supplied the mail route established by law, from the mouth of Red River, intersecting the great western and other lines at Huntsville, with tri-weekly mail service by stage coaches, and that they use their best efforts to have said route supplied with such service, at as early a day as practicable.

Passed, February 11, 1854.

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CHAPTER XCIV.

An Act to locate Permanently the County Seat of Cook County.

Section 1. Be it enacted by the Legislature of the State of Texas, That the town of Gainesville, the present seat of Justice of Cook county, be, and the same is hereby established the seat of Justice of said county.

Sec. 2. That this act take effect and be in force from and after its passage.

Approved, January 26, 1854.

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CHAPTER XCV.

An Act to authorize the Clerk of the County Court of Milam County to transcribe certain Records.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Clerk of the county court of Milam county be, and he is hereby authorized and required to transcribe into well bound books, to be furnished by the said county of Milam for that purpose, the records of book "A" vol. 1, book "B" vol. 1, and all other records that the County Court of Milam may deem necessary for preservation, and when the same shall have been examined and approved by the County Court of said county, the same shall have all the force and effect

in law and equity that the original could or should have, and all certified copies taken from the same shall be as valid and have the same force and effect as if taken from the original.

Sec. 2. That the said Clerk shall receive such compensation for his services as shall be allowed by said court, not to exceed fifteen cents for each hundred words so transcribed, to be paid out of the County Treasury.

Sec. 3. That this act take effect and be in force from its passage.

Approved, February 6, 1854.

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#### CHAPTER XCVI.

An Act authorizing the Clerk of the County Court of Navarro county to Transcribe the Book of Marks and Brands of said county.

Section 1. Be it enacted by the Legislature of the State of Texas, That the Clerk of the County Court of Navarro county is hereby authorized and empowered to transcribe the book or marks and brands of said county.

Sec. 2. And said book when transcribed shall in all cases have the same validity and effect as the original, and that this act take effect from and after its passage.

Approved, February 8, 1854.

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#### CHAPTER XCVII.

Joint Resolution granting Stephen Crosby, Commissioner of the General Landoffice, leave of absence from the State.

Section 1. Be it resolved by the Legislature of the State of Texas, That Stephen Crosby, Commissioner of the General



Landoffice, is hereby granted leave of absence from the State, for sixty days, at such time during the present year as he may deem most conducive to his health, and least prejudicial to the business of the General Landoffice, and that this resolution take effect from its passage.

Approved, February 10, 1854.

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CHAPTER XCVIII.

Joint Resolution.

Section 1. Be it resolved by the Legislature of the State of Texas, That our Senators be instructed and our Representatives in Congress be requested to use their influence to procure the passage of a law by the Congress of the United States, changing the port of entry for the collection district of Brazos Santiago, making Brownsville, instead of Point Isabel, the port of entry for said district.

Sec. 2. Resolved, That the Governor be requested to cause copies of this joint resolution to be forwarded to each of our Senators and Representatives in the Congress of the United States.

Passed, January 20, 1854.

## STATE OF TEXAS.

I, EDWARD CLARK, Secretary of State of the State of Texas, certify that the Fifth Legislature of said State commenced its session at the City of Austin, on Monday, the seventh day of November, in the year one thousand eight hundred and fifty-three, and adjourned on Monday, the thirteenth day of February, in the year one thousand eight hundred and fifty-four.

And I further certify, that the Acts and Joint Resolutions contained in this Volume are true copies, taken from the original rolls deposited in the Department of State, with which they have been carefully compared.

[L. s.]      Given under my hand and Official Seal, at the City of Austin, the tenth day of March, in the year one thousand eight hundred and fifty-four.

EDWARD CLARK.

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